

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

3 UNITED STATES OF AMERICA) CAUSE NO. 3:04-CR-240-P
(
4 vs.)
(NOVEMBER 4, 2008
5) DALLAS, TEXAS
HOLY LAND FOUNDATION, ET AL (9:00 A.M.

VOLUME 31 OF 37

STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE
and a jury

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32 COURT: Good morning.

33 Is there a matter we needed to take up?

34 MR. JACKS: Yes, Your Honor. It was the
35 Government's understanding that the Rule has been invoked as
36 to all witnesses, including experts, and it is apparent from

1 what something Doctor McDonald said that he was in the
2 courtroom during the testimony of Doctor Esposito, and we just
3 want to make sure that that doesn't happen again; that there
4 is no need for other witnesses to be in the courtroom when
5 another witness is testifying, and we would ask that the Rule
6 be invoked or that it be enforced. It is our understanding
7 that it had been invoked at the start of the trial, and that
8 any other witnesses may not be in the courtroom while other
9 witnesses are testifying, whether they are experts or not at
10 this time.

11 THE COURT: Counsel?

12 MS. CADEDDU: Your Honor, my understanding was the
13 Rule had been invoked, but that experts were excluded from
14 that. And generally experts can review the testimony of other
15 experts so they can respond.

16 THE COURT: That was my recollection. I don't know
17 that we specifically discussed it, but that is what I recall
18 is that we had discussed the issue of experts, and generally I
19 exclude experts from both sides because they can review the
20 testimony of other witnesses in formulating their opinion.

21 MR. JACKS: I would understand that if it was an
22 expert that they were in the same field with, but I don't
23 think these experts are testifying about the same matters in
24 the same fields and it gives them the benefit of watching
25 cross examination and seeing what exhibits are used and that

1 type of thing.

2 I don't believe that that is proper. The Government
3 certainly didn't have the benefit of having other witnesses
4 sit in while earlier witnesses were sitting here.

5 THE COURT: Well, all I can say, again, is I think
6 we had discussed it and we had excluded experts. We can go
7 back and check that, but if we had done that, really nothing
8 improper was done. We will go back and have that checked.

9 You are just talking from now forward?

10 MR. JACKS: Yes, Your Honor. Even if there is a
11 disagreement about what was said, we would from this point
12 forward ask that Defense experts, because that is all that we
13 have left, that they not sit in during the testimony of
14 another expert, because it doesn't serve that purpose to see
15 what is the --

16 THE COURT: Do you intend to have other experts in
17 the courtroom during any further testimony?

18 MR. MYSЛИWIEC: We could keep them out if it is an
19 issue, Your Honor. I think the only one we have left is
20 Doctor Benthall.

21 MS. HOLLANDER: And Doctor Mackintosh, who hasn't
22 been here.

23 MR. MYSЛИWIEC: He was in the courtroom yesterday.

24 THE COURT: He was? If you will let him know to
25 stay out during the rest of the testimony, unless it is

1 something he needs to listen to in order to formulate his
2 opinions. I think that is what we had excluded. But if it
3 isn't he doesn't need to be here --

4 MS. CADEDDU: And I want to make sure there is not
5 going to be any cross examination about impropriety of him
6 being in here, because Doctor McDonald was here properly.

7 But I also want to make sure -- we have ordered some
8 transcripts for expert witnesses to review, and I assume that
9 is still not a problem.

10 THE COURT: No.

11 MS. CADEDDU: Okay.

12 THE COURT: They are entitled to review witness
13 testimony if it is something that they used in formulating
14 opinions.

15 Ms. Shapiro?

16 MS. SHAPIRO: With respect to Mr. Mackintosh, we
17 intend today to file a supplemental motion in limine. We had
18 moved in limine to exclude him earlier on, and we also asked
19 for a *Daubert* hearing, but having reviewed all of his writings
20 and materials at this point we don't think there is any basis
21 even to have him come here from out of town for a *Daubert*
22 hearing because we think he is clearly improper, and we will
23 plan on filing something today on that point.

24 MS. MORENO: I will be handling that on behalf of
25 Mr. Cline as soon as we read counsel's papers.

1 THE COURT: Out of all the experts, I didn't think I
2 needed a *Daubert* hearing except perhaps that one. I do have
3 some concerns about what he is going to testify about and
4 whether it would be proper, so we will need to take a look at
5 that particular expert.

6 All right. Are we ready for the jury?

7 MS. CADEDDU: We are.

8 THE COURT: Go ahead and bring your witness up.

9 (Whereupon, the jury entered the courtroom.)

10 THE COURT: Ladies and gentlemen of the jury, good
11 morning. And we are ready to proceed.

12 Ms. Cadeddu?

13 MS. CADEDDU: Thank you, Your Honor.

14 Q. (BY MS. CADEDDU) Good morning, Doctor McDonald.

15 A. Good morning.

16 Q. Let's just -- To quickly recap where we were when we
17 broke yesterday, yesterday we reviewed three different songs
18 or performances from one videotape from 1988.

19 A. That is correct.

20 Q. And then we also took a look at a dramatic performance, a
21 skit from a videotape that was dated from 1990?

22 A. 1990, yes.

23 Q. Now, going back to the musical performances from 1988
24 that we looked at or that we talked about before we looked at
25 the skit, did you review the full performance that the

1 Elbarasse Search No. 32 segments came from?

2 A. Yes, I did.

3 Q. So an entire --

4 A. The entire performance.

5 Q. Can you tell the jury what you were able to determine in
6 reviewing the complete videotape about the distribution of the
7 types of songs that you talked about?

8 A. As I said yesterday, the distribution of the songs with
9 which they selected to perform in this particular concert were
10 drawn from three of the categories that I had talked about
11 yesterday, three of those Palestinian music categories,
12 virtually in even distribution for the most part.

13 MS. CADEDDU: Could I have the elmo, please?

14 Q. (BY MS. CADEDDU) And back to the handwritten list we
15 have over here, those three categories, would those be the
16 ones marked in blue highlighter?

17 A. Yes, that is correct.

18 Q. Now, did you review all of the clips that were exhibits
19 or potential exhibits, as well as full videotapes from five
20 full videotapes?

21 A. That is correct. I reviewed all of the music
22 performances and dramatic performances on all of the clips
23 from the case as well as five complete performances in their
24 entirety.

25 Q. Okay. And is the distribution that you just talked

1 about, this sort of equal distribution among these three
2 categories, is that consistent across -- the distribution
3 consistent across all of the videotapes from the late '80s
4 period?

5 A. Yes. The 1988 and the 1991 performances all conformed to
6 this same model, this same distribution model.

7 Q. And I think you mentioned this yesterday, but would that
8 be true when you -- Is that distribution consistent with what
9 you see and what you have seen among performances of Intifada
10 bands in the Palestinian territories or in Jordan for that
11 same time period?

12 A. It is actually quite rare. In this instance you would
13 very rarely see a band mix these categories up. They would
14 concentrate on one category so as not to dilute their
15 political message.

16 Q. Now, what period of time do the video clips, the exhibits
17 and the full videos, cover that you reviewed for your
18 testimony?

19 A. There were five complete videotapes and they spanned from
20 1988 to 1996.

21 Q. And how about the clips, the individual clips?

22 A. The individual clips were also of that same range.

23 Q. And we are talking -- When we are talking about video
24 clips and performances, we are talking about the performances
25 and clips for the al-Sakhra, later known as the Al-Nujoom

1 band. Right?

2 A. That is correct. They were all of the same band.

3 Q. And how long did -- Would you say that this distribution
4 of song types -- These three song types, how long did it last
5 that there was that type of distribution?

6 A. Based on my analysis of all of the clips, as well as
7 these comprehensive performances, this style, this approach to
8 their performances lasted until 1993.

9 Q. And how did -- It lasted until 1993. How did it change?

10 A. Quite drastically. The 1994 performances that I have,
11 their approach to performing shifted considerably such that
12 rather than having equal distribution of these three
13 categories, they completely eliminated the Islamist category
14 and they focused almost entirely on the Sha'bi folkloric
15 music.

16 Q. Were there any -- Was it just Sha'bi music or were there
17 also some others?

18 A. It went from a relatively equal distribution to all of a
19 sudden 85 percent Sha'bi, 15 percent Thowri, and no Anashid.

20 Q. And in what period of time was that true? You said you
21 saw it in 1994. How did that compare with the 1996
22 performances?

23 A. The 1996 was also consistent with that second approach,
24 the focus on just the folk music.

25 Q. And I am going to highlight in pink, or actually make a

1 checkmark since I have already highlighted, the two categories
2 here on our sheet that are the ones that you say are from the
3 latter period of the band's performances. And of course with
4 the understanding that the Sha'bi is really the predominant
5 one. Is that what you said?

6 A. Yes.

7 MS. CADEDDU: Your Honor, I would actually like to
8 offer this exhibit as a demonstrative at this time, and I am
9 afraid I have no number what it is.

10 THE COURT: At some point get a number.

11 Mr. Jacks, any objection?

12 MR. JACKS: Yes, Your Honor. It is not -- It is
13 just her notes, Your Honor, and it is not demonstrative of
14 anything except her notes during cross examination.

15 THE COURT: It is her notes on direct and it does
16 reflect the witness' testimony. I think it is a proper
17 exhibit. That will be admitted as a demonstrative.

18 Once you get the number, let us know so the record can
19 reflect it.

20 MS. HOLLANDER: It will be Defendants No. 1424, and
21 I will get her a sticker.

22 THE COURT: Defense No. 1424 is admitted as a
23 demonstrative exhibit.

24 Q. (BY MS. CADEDDU) So you have said that the band's
25 orientation shifted dramatically in this 1994 to 1996 period.

1 How does that change in approach reflect what is going on in
2 the Palestinian territories during that same period?

3 A. This is where they actually fall in line with the types
4 of performances that are taking place in the territories. At
5 this time this is what I testified to yesterday about the Oslo
6 period where all of a sudden the more militant, the more
7 political songs fell out of favor among the general
8 population. For this band in particular to move away from the
9 more political songs, move away from the Thowri and the
10 Anashid and focus entirely on folk music, shows they were
11 following the larger trends taking place in the Palestinian
12 territories.

13 Q. And was there anything else that you have seen in the
14 videotapes of the performances from this 1994 to 1996 period
15 about how the band presented itself that would also indicate a
16 shift?

17 A. It was more than just the music that they changed. They
18 changed their name. The name of the group, originally
19 al-Sakhra, as I said yesterday is very Islamic. It has very
20 powerful Islamic associations. They changed the name of the
21 band to Al-Nujoom, which means the stars. It has no religious
22 meaning in that sense, and it is basically a neutral name for
23 the group.

24 In addition, you will notice in the later performances
25 they predominantly wear folkloric clothing when they perform

1 rather than the shirts and ties that we saw in their earlier
2 1988 examples. In the later ones they mostly wear folkloric
3 overcoats that we saw those dancers wearing yesterday, those
4 debke dancers. They wear the head scarves on their heads,
5 what are called hatta, and all of that references this kind of
6 folky, you can call it Palestinian hillbilly, I guess, symbols
7 where they are really trying to emphasize the grass roots in
8 the music.

9 In addition, they have Palestinian embroidery presented
10 on stage. This is another very powerful symbol of Palestinian
11 nationalism among the folk kind of thing. All of these are
12 neutral in the sense that they don't present any particular
13 Islamic meaning.

14 MS. CADEDDU: Could we take a look, please, at HLF
15 112-A? And that is a video clip? Thank you, Mr. Lewis.

16 Q. (BY MS. CADEDDU) And once again, Doctor McDonald, if you
17 need to stop this one and talk about it, please so indicate.

18 (Whereupon, HLF Search No. 112-A was played, while
19 questions were propounded.)

20 THE WITNESS: If you will pause right there, you
21 will notice that the singers are wearing the overcoat and the
22 head scarves. Participants are doing the debke dance,
23 although they are not doing it as well as the professional
24 dancers were doing it yesterday. And if you notice the podium
25 there at the center of the stage, that is the embroidery I am

1 talking about. That kind of Palestinian needlework is
2 indicative of the folk, so-to-speak. Women would make their
3 dresses using this embroidery, and the designs that they would
4 use identified them from being from certain village. So
5 certain villages had certain patterns. All of this signifies
6 to this audience, to a Palestinian audience, the sense of the
7 folk, the sense of the people.

8 Q. (BY MS. CADEDDU) And let me just ask you, we saw a
9 reference to martyrdom. Is that -- Is martyrdom and the
10 concept of martyrdom something that is unique to Hamas?

11 A. Oh, no, of course not. There is nothing about this
12 performance that would give anyone any indication that this
13 group is associated with Hamas. This is folkloric. If you
14 notice the beginning of the clip was singing the beginning of
15 al-tawbah. We talked about yesterday, the "ouf, ouf, yawbah
16 yawbeh." This is the signature beginning of the folkloric
17 piece. It immediately then shifts into a dance with the
18 pounding folk rhythm. And as soon as they started playing
19 that rhythm, then you noticed that people in the audience
20 start to form a debke line.

21 The text is also very folkloric in the sense that
22 martyrdom, talking about -- beginning the lines with, "O
23 mother" are also ways of introducing folkloric poetry.
24 Martyrdom in this sense is not, clearly, associated with any
25 particular political ideology. It is just the sense of

1 martyrdom in Palestinian culture and Palestinian history at
2 large or generally.

3 Q. Could we continue, please?

4 A. So basically what we have seen there, what they end up
5 doing, they brought that table out in the middle of the dance
6 floor and they started to kind of construct out of paper a
7 model of the dome of the rock mosque in Jerusalem. That to me
8 is really the first time we see anything that could be
9 considered Islamic but not Islamist. It is -- That mosque is,
10 of course, a symbol of the holy land in general and Palestine
11 in general, but it is the first time you would see anything in
12 that clip that could be interpreted as something Islamic.

13 Before that the text of the song is all straight folklore, you
14 know, talking about attaining victory and martyrdom, throwing
15 stones, not being afraid of torture if you are in detention,
16 "protecting my family and children from the world of evil.
17 They called me a terrorist because I am free." These are all
18 very powerful masculine themes that you find in a lot of the
19 poetry associated with this song type.

20 Q. And can you remind us again when that song type arose?

21 A. I mean, we don't know its origins, but it was certainly
22 the very first recordings we have in the early 20th century,
23 this was the music that was on those recordings. That period
24 of 1919 to 1948, that early period is specifically what is
25 most associated with this music.

1 Q. And would this type of performance be typical what you
2 saw during that 1994-1996 kind of period?

3 A. Yes, this would be typical.

4 Q. Now, we have been talking up until now, yesterday and
5 today, about videotapes of the al-Sakhra band and Al-Nujoom
6 band. I want to turn now and ask you -- I want to shift gears
7 a little bit and ask you about the videos that were seized by
8 the Israeli Defense Force in Operation Defensive Shield or
9 later, and I want to -- the Prosecution has played some of
10 those so I would like you to take a look at one of these with
11 me that depicts some performances.

12 MS. CADEDDU: Could we see Jenin Zakat No. 6-A,
13 please?

14 Q. (BY MS. CADEDDU) Okay. So this identifies what it is
15 that we are looking at and the year.

16 MS. CADEDDU: Could we now take a look at clip C
17 from the same video, please? And actually, could you just
18 hold one second?

19 Q. (BY MS. CADEDDU) 2004, can you sort of tell us what is
20 happening in 2004? We have kind of shifted now from -- I
21 mean, we have shifted periods?

22 A. Yeah, we certainly have. 2004 is kind of one of the high
23 points of the second Intifada, the second resistance movement
24 that started in 2000. This is the second one. In particular,
25 this time period was right after the reoccupation of the West

1 Bank, where Israel came in and clamped down on the local
2 populations. They built the wall that separates them from
3 each other. This was a time of intense suicide bombing. It
4 was a time of intense house-to-house searches by Israeli
5 soldiers. It was one of the high, most intense periods of
6 fighting between the two sides, and certainly a time of
7 intense cultural stress for those who are living under
8 occupation.

9 Q. Okay.

10 MS. CADEDDU: Could we look at clip C now, please?

11 Q. (BY MS. CADEDDU) And once again, stop us and tell us
12 what is happening.

13 (Whereupon, Jenin Zakat No. 6-C was played, while
14 questions were propounded.)

15 THE WITNESS: Let's pause it right there, please.
16 What you are seeing here is a performance, a dramatization of
17 a woman being searched as she processes through a checkpoint,
18 except with one wrinkle. The two here pictured in blue jeans
19 with one wearing the cowboy hat and carrying guns, those
20 aren't Israeli soldiers. You will notice they are not wearing
21 an army uniform. These girls are portraying Israeli settlers.
22 The fact they are wearing the cowboy hat the jeans and the
23 button down shirts, this is kind of like the standard dress
24 for Israeli settlers in the West Bank. So this young girl is
25 actually being searched at gun point by settlers rather than

1 by soldiers.

2 Q. And can I stop you there? Settler is kind of a term of
3 art. What does that mean, quickly?

4 MR. JACKS: Your Honor, again I have to object.

5 This is outside the scope of the expertise for which he has
6 been qualified for. He is just injecting comments that are
7 not the basis of his expert opinion, and we object to it.

8 THE COURT: Overrule that objection. He may opine
9 on that. Go ahead.

10 THE WITNESS: Israeli settlers are people, Israeli
11 citizens who want to colonize the West Bank and Gaza Strip.
12 They moved there and they set up settlements, little colonies,
13 if you will, in the West Bank and Gaza Strip as a way of
14 taking it back for Israel. Their larger goal is to take
15 all of the land, including the West Bank and Gaza Strip. They
16 are probably the most hotly contested feature of the
17 engagement between --

18 MR. JACKS: Again, I am sorry. There has been no
19 showing or any basis for these opinions to be entered into
20 evidence by this witness. There is no showing of what
21 authority he relies on or anything of that nature, and it is
22 just something that has been presented without any
23 qualifications.

24 THE COURT: Overruled. Go ahead.

25 Q. (BY MS. CADEDDU) Do you want to go ahead?

1 A. Well, let me just finish what I was saying. This young
2 girl, you will notice what she is wearing, she was wearing a
3 head scarf, or a hijab. As she is being searched by the girls
4 playing the rolls of settlers. They forcibly take the head
5 scarf off of her head and throw it on the ground and pat her
6 down. This kind of searches are things that I witnessed
7 millions of times in day-to-day interactions going through
8 these kind of checkpoints, and it is the kind of thing these
9 people in Jenin would experience virtually on a daily basis
10 trying to navigate these checkpoints. This particular
11 performance is a dramatization of that everyday occurrence or
12 experience.

13 And the fact that she is a young girl, a muhajiba meaning
14 someone who wears this scarf, gives this a certain meaning
15 among the participants of, I guess you would say, a culturally
16 insensitive search. To take off a woman's scarf like that and
17 pat her down would be considered offensive, because the scarf
18 is a symbol of modesty and piety. So then you notice she was
19 patted down and picks up her scarf and moves forward.

20 So you notice she takes the microphone, and this is -- in
21 performance studies this would be called a dramatic pause or a
22 narrative pause. Everybody has kind of stood still, and she
23 steps forward on the stage and gives a speech or a poem. So
24 the motion of the performance has stopped, and she is now
25 giving you a soliloquy or like just a narrative by herself to

1 the audience while everyone else kind of freezes.

2 And what she says is really quite interesting in the
3 sense that it is not necessarily what you might think. She
4 says, "My turn to speak has come." I mean, right there that
5 gives you a sense of vulnerability. She feels she has never
6 had a chance to speak. She says, "My turn to speak has come.
7 I have been silent for a thousand years. I have listened to
8 the best of conclusions," meaning she has heard all of the
9 talk.

10 "When I was a child they promised me peace." Now what is
11 interesting about that, she doesn't say who "they" is. "When
12 I was a child they promised me peace." I mean, you can read
13 that a lot of different ways. She could be arguing very
14 easily that "they" includes Arab and Palestinian leadership as
15 well as Israeli and Western leadership. "They," the leaders,
16 "have promised me peace.

17 "Year, after year, after year has passed and they
18 slaughtered the pigeons." This is another example of how
19 these translations aren't totally appropriate in some places.
20 "They slaughtered the pigeons" should actually read "They
21 slaughtered the doves," meaning the doves of peace. Doves are
22 a common symbol for peace in this part of the world; so, "the
23 leaders have slaughtered the doves of peace, and I am left
24 here crucified on the door for peace. There is nothing left
25 for me except to take control with my own."

1 And this is where the poet, the poem that she is talking
2 about changes voice a little bit. She goes from a position of
3 vulnerability and a position of victimization to a position of
4 empowerment, taking control with her own hand.

5 Okay. That second section of the same dramatic
6 performance basically gives you the answer, so-to-speak, of
7 what the first girl was saying. She is saying, "take control
8 with my own hand," and then we see a dramatic performance of
9 what that means. And in this sense it means becoming a
10 martyr, a suicide bomber. The second girl, notice that she is
11 not wearing a hijab, the scarf. Notice she is wearing blue
12 jeans and a vest, showing a departure from that first costume.

13 She says, "I am the martyr. I come dressed -- life
14 dressed in a coffin with a smile on my face and the price in
15 my right hand." This "price in my right hand" is actually
16 very significant because it is the price for the homeland. It
17 is the price that has to be paid in order to get the homeland
18 back. That is the association she is making.

19 And you can see that in the next line when she says, "In
20 whom do you glory and your living is rotten, O, you who sold
21 the homeland." She says that three times, "O, you who sold
22 the homeland." And this is where we know who the "they" are.
23 In the beginning of the poem we don't know who she is
24 criticizing. She could be criticizing Israeli leadership,
25 Arab leadership, Western American, we don't know. In this

1 second stanza here we find out who the "they" is--"you who
2 sold the homeland." Now, this is a very specific and pointed
3 attack at Palestinian leadership who has failed them in
4 securing the peace that they were looking for. They sold out.
5 They sold the homeland to the Jews. They sold the homeland to
6 Zionism, and because of that she has to pay the price to get
7 it back in her martyrdom.

8 Following that it is pretty self-explanatory, although
9 horribly rehearsed. She pretends to blow herself up and
10 everybody falls down, and that is basically the end of the
11 sketch.

12 MS. CADEDDU: There is another clip that I think Ms.
13 Moreno played. Can we play that now?

14 Q. (BY MS. CADEDDU) And we don't have the scrolling text,
15 so what we will do is we will watch the video and then I will
16 put the poem on the screen for you to talk about.

17 (Whereupon, the clip was played, while questions
18 were propounded.)

19 THE WITNESS: We can stop it there.

20 Q. (BY MS. CADEDDU) I am going to try to get this so we can
21 see the whole thing at once.

22 A. Actually I stopped the video too early. We didn't get to
23 this section yet. We did the first stanza. That was my
24 mistake.

25 Q. I am sorry.

1 A. So we notice -- when you see the text, we will talk about
2 what she is talking about, but based on what you have already
3 seen you can already make some observations.

4 First of all, she is not dressed, she is not a muhajiba.
5 She is not wearing a scarf. And she is also searched. Her
6 bag is thrown to the ground by the children playing the role
7 of Israeli settlers. And then after she is searched she picks
8 up her bag and the microphone. But what she does is a little
9 bit different than the first time.

10 You notice the first time the young girl spoke to the
11 audience, and she turned her back and it was kind of like the
12 motion on stage stopped? This one the young girl is actually
13 speaking at the settlers, the characterization of the
14 settlers. So the dramatic motion continues in this sense.

15 And this is what she says after she is searched. She
16 takes the microphone and says, "You do not know me, O soldier.
17 You are afraid of my childhood, afraid of my small fingers and
18 of my dreams." This is another of those moments where the
19 dramatic shift has taken place between one of victimization
20 and one of empowerment. She is taking a position of speaking
21 at these settlers in a way she could never do in real life.
22 The fact that they have guns on her gives you the impression
23 that that power imbalance is such that she could never mouth
24 off to them like this.

25 She says to them, "You are afraid of my childhood, afraid

1 of my small fingers, and of my dreams." This is basically in
2 the sense that "you are searching kids and you are doing so
3 because you are afraid of me, my little small fingers. You
4 can grasp the collar of my shirt, but you will not be able to
5 grasp my heart. You are afraid of my notebook and my toy and
6 my books." Those are the contents of her backpack that was
7 searched. You know, "Why are you searching me? All I have
8 got is a toy and a notebook in there?"

9 Then she has a hard time remembering her next line, and
10 then she says, "You are afraid of my toy and books. You
11 scream in fear of my innocence and hide in the rusty helmet."
12 Now, you notice this is the same theme we saw in the skit
13 yesterday as well; this idea that Israel has a great amount of
14 military power but that power is misused against the innocent.

15 "I am looking you in the eyes. What right do you have
16 for me to give you my homeland?" It is a very obtuse
17 translation. "WHAT right do you have? What right do you
18 have."

19 So basically what she is doing in this performance, this
20 dramatization, is she is reflecting what is going on in her
21 everyday experience.

22 And then in the second half she is transcending that
23 experience by doing something she couldn't normally do. So we
24 can read into this what -- basically how life is like for her
25 in a sense, or at least in this dramatization of it, what it

1 is like going through a checkpoint, and then that experience
2 is then transcended, it is moved beyond by confronting the
3 soldiers and being able to tell them what she wishes she could
4 tell them in real life.

5 Q. Now, we have been talking about violence and violent
6 themes in videos from yesterday and today. Are violent themes
7 in music and performance unique to Hamas in the Palestinian
8 territories?

9 A. No, not at all.

10 Q. And so what sorts of groups use violent themes in their
11 music and their performance?

12 A. Virtually all of them.

13 Q. So politically what would that --

14 A. Politically that would mean Hamas and all of the other
15 Islamist organizations. It would mean the secular nationalist
16 organizations, like Fatah and the PLO, communist or Marxist
17 organizations like the PFLP and the PFLPPDF, Islamic Jihad.
18 Basically all of the political organizations would use these
19 same types of themes and same types of violent performances in
20 their performative art.

21 Q. In fact, have you seen those yourself?

22 A. Yes.

23 Q. In your field work?

24 A. Yes. It is quite often and it is quite common.

25 Q. As an anthropologist and an ethnomusicologist, and based

1 upon your research in the field, your field work, why do we
2 see depictions of violence across the political spectrum in
3 Palestinian music and performance?

4 A. Well, in the courses I teach on music and violence, you
5 find this phenomenon very common around the world in instances
6 where there is a significant amount of cultural trauma taking
7 place. Performance is a means of transcending the traumas
8 people feel in their everyday lives.

9 Q. And so are there -- Let me just go back for a second.
10 Are there time periods in Palestinian history where -- I mean,
11 you said, I think, that there are always these depictions of
12 violence across the board and in every -- across the political
13 spectrum. Are there time periods where they are more and less
14 prevalent?

15 A. It does ebb and flow a little bit. That is true,
16 depending upon the political situation. For example, in that
17 period between 1993-'94, the Oslo period, and 2000, this kind
18 of thing would be quite rare. You could find it on the
19 streets, you know, on CDs or DVDs, but it would actually be
20 pretty rare. They wouldn't be selling that well.

21 However, in 2000 with the start of the second Intifada,
22 all of a sudden there was this explosion of this kind of
23 media. And that is basically what you could say for the
24 Palestinian history in general is that this kind of thing ebbs
25 and flows with the politics.

1 Q. And again, as an anthropologist, ethnomusicologist, and
2 based on your research in the field, what is the significance
3 of depictions of violence in Palestinian music and
4 performance?

5 A. The significance is that in many ways performance allows
6 people--music, dance, theater--it allows people the
7 opportunity to both reflect on their lives and create what
8 might be called alternative aesthetic realities, new spaces is
9 you can imagine something different.

10 This kind of violence that you see in these clips you
11 find the world over. In fact -- I mean, in the time period,
12 the same time period that we are watching these clips of
13 al-Najoom and the time period where this thing is going on in
14 the territories, we here in America were having the same
15 discussion about music and violence with the rise of hardcore
16 and gangster rap. The violence in those CDs was graphic to
17 the extent that people were offended by it, and in this
18 country we were debating freedom of speech in talking about
19 violence and the performing arts. And in many ways they
20 mirror each other in that in both cases the artists are trying
21 to portray what life is like for them, and also trying to
22 aesthetically or musically or artistically move beyond that
23 experience.

24 Q. I mean, can you give that to us in sort of plain English?

25 A. Sure. Basically you have people who feel powerless

1 trying to feel powerful, even for a brief moment, on stage.

2 MS. CADEDDU: Your Honor, I pass the witness.

3 THE COURT: Any further questions from any Defense
4 counsel?

5 MS. HOLLANDER: No questions.

6 MS. MORENO: No questions.

7 MR. WESTFALL: No, Your Honor.

8 MR. MYSЛИWIEC: No, Your Honor.

9 THE COURT: Mr. Jacks?

10 CROSS EXAMINATION

11 By Mr. Jacks:

12 Q. You, sir, graduated from college when?

13 A. Which degree?

14 Q. Undergraduate.

15 A. Undergraduate, 1998.

16 Q. About ten years ago. And then when did you receive your
17 Master's?

18 A. 2001.

19 Q. And your Ph.D. was when?

20 A. 2006.

21 Q. So just about two years ago. Is that correct?

22 A. A little more, but yeah.

23 Q. And the title of your dissertation was "My Voice Is My
24 Weapon"?

25 A. Yes.

1 Q. One of the things I think that you said several times
2 about songs, and in particular these songs, is that they
3 convey a political message. Is that correct?

4 A. That is correct.

5 Q. And you said several times that that is one of the
6 effects or intended purposes of a lot of these songs.
7 Correct?

8 A. That is correct.

9 Q. You made -- and I am not sure. Maybe you remember which
10 one it was, but you made a statement about one of these videos
11 that you looked at, and you made the statement something about
12 they would have been booed off the stage? Do you remember
13 making that statement?

14 A. Yes.

15 Q. And what was -- Do you remember which video it was that
16 you were commenting on at that time?

17 A. I believe we were talking about the 1988 video.

18 Q. And obviously in that performance they weren't booed off
19 the stage, were they?

20 A. No, they weren't.

21 Q. And apparently the audience was receptive to their
22 performance.

23 A. From the video, yeah, I would say that is true.

24 Q. So all this statement about these different types of
25 music and whether this is folk music or martial music or

1 classic music, and all those different categories, didn't seem
2 to matter to that audience. Is that a fair statement?

3 A. That audience, yeah, I think that is a fair statement,
4 although we can't really tell because we don't have any
5 reception data of the people in the audience. There may have
6 been people who were offended by seeing Islamist music being
7 portrayed alongside a dance piece.

8 Having dancing with Islamist music would be certainly
9 offensive to some more strict Muslims. But we don't know this
10 because we don't have any data that would suggest how the
11 audience really responded. We can only hear applause, but we
12 can't hear un-applause. Do you know what I mean?

13 Q. Well, in all of these videos that you looked at, there
14 was no instance where the audience was booing or complaining
15 or anything like that. They all seemed to be swept up in the
16 emotion of the songs. Is that a fair statement?

17 A. Actually no. There was one instance where there
18 was -- The participants tried to create a debke line, and
19 maybe it was an usher or somebody there, he was carrying a
20 walkie-talkie, so I assume he was an event organizer of some
21 type, he walks up and tells them to stop dancing. And it
22 struck me because it is really rare that you would see
23 something like that. So that kind of showed me that perhaps
24 this was an instance where dancing wouldn't be appropriate so
25 they wanted them not to do it.

1 Q. Because it is more of a political event and it is not a
2 folkloric event?

3 A. I don't think I would say that. I think it was a more
4 anesthetic decision. Dancing is and very rhythmic music is
5 often seen as potentially dangerous in Islam, and so for some
6 people who are coming to see more Islamist styled music, to
7 see dancing might be a little bit offensive to them.

8 Q. Do you have any information about who is sponsoring these
9 events that you are watching?

10 A. Only the information that was given to me in the
11 translations and what I can gather from the banners behind
12 them.

13 Q. Okay. So did you notice that several of them were
14 sponsored by this IAP, Islamic Association for Palestine?

15 A. That rings a bell.

16 Q. Okay. Do you know anything about that organization?

17 A. I really don't.

18 Q. Okay. Do you know anything about the Palestine
19 Committee? Have you ever heard of that?

20 A. Not until I watched these videos and the translations.

21 Q. Did you notice -- I believe it was in the 1990 video. Do
22 you recall looking at that video that was in Los Angeles?
23 Does that ring a bell to you?

24 A. That would have been one of the clips rather than one of
25 the comprehensive ones.

1 Q. I believe it was Mushtaha Search No. 1. I think you may
2 have viewed it yesterday and testified about it. Do you
3 recall -- Let me just ask this. Do you recall in viewing one
4 of these videos that with regard to the al-Sakhra band one of
5 the band members had, I will call it, an instrument, a device
6 that you beat on?

7 A. That was a frame drum called a deff.

8 Q. Okay. Do you recall seeing what was written on that
9 drum? Did you notice that?

10 A. No, I didn't.

11 Q. You didn't see that it said al-Sakhra band, and then
12 Islamic Association for Palestine? It was in the closed
13 captioning.

14 A. Was it in Arabic or English?

15 Q. It was in Arabic, but it was translated on the closed
16 caption.

17 A. You know, I may have seen it. I am sure I did see it,
18 but I went through hours and hours and hours of these clips,
19 so off the top of my head I can't definitively have a picture
20 in my head what you are talking about. But that wouldn't
21 surprise me.

22 Q. What would it indicate to you that the band would have
23 its name painted or somehow imprinted on one of its
24 instruments, but then also have the name of an association
25 painted on the instrument? What would that indicate to you

1 about the relationship between that band and that association?

2 A. I honestly don't know. I would have to ask them.

3 Q. Would it seem to indicate that there is a close
4 relationship between that band and that organization, to the
5 extent that every time they go perform somewhere they don't
6 have a new instrument with their name on it and the name of
7 the association that they are playing for? Would that seem to
8 make sense to you?

9 A. That is entirely possible. I mean, it could be that the
10 group paid for the drum, you know, or gave them the
11 instruments. We don't know. So, I mean, that is entirely
12 possible. But of course, it could be how many other reasons
13 why they are together on that drum.

14 Q. Or just the obvious reason could be.

15 A. All I am saying is if we don't know, then there really
16 isn't an obvious reason.

17 Q. You --

18 MR. JACKS: Could we show No. 32-F? It would be I
19 believe HLF Search. I am sorry, Mr. Lewis. It would be
20 Elbarasse Search No. 32-F. I believe this is one that you
21 were questioned about.

22 (Whereupon, Elbarasse Search No. 32-F was played,
23 while questions were propounded.)

24 Q. Do you recall seeing this yesterday?

25 A. Yes, I do.

1 Q. Okay. And I believe you testified yesterday that these
2 individuals are reenacting, according to you, a protest. Is
3 that a fair -- Is that what you said?

4 A. Yes.

5 Q. And the green head bands, do you know what that
6 represents?

7 A. Those green head bands are associated with Hamas.

8 Q. Okay. And you said -- Is that the Hamas flag that you
9 identified?

10 A. It is actually the Saudi Arabian flag, but it is a flag
11 that is often used by Hamas; the green flag of with the
12 Shahada written on it and a sword beneath it.

13 Q. And you see the text there that makes reference to
14 Khyber?

15 A. Yes.

16 Q. And do you know what the story of Khyber is?

17 A. Yes.

18 Q. And is that where Muhammad -- Just tell the story.

19 A. Well, I am not a scholar of Islam, but I can tell you
20 what the popular narrative of Khyber is. Very briefly, Khyber
21 was a village of Jews that lived just north of Mecca during
22 the time of the prophet, and as Islam was spreading through
23 the region in the early years of Islam, Muhammad laid siege to
24 that village and basically conquered the village.

25 Q. And killed the inhabitants?

1 A. Actually no, he didn't. This was the interesting thing.
2 He didn't. He killed a couple of the leaders and then allowed
3 everyone else to live in peace, so long as they paid him taxes
4 every year.

5 Q. So if you weren't Islamic you had to pay taxes?

6 A. Yes.

7 Q. Okay. But you think the story is that he killed a couple
8 of the leaders?

9 A. I am saying the story is he killed the leaders of this
10 village. At least that is the popular way the story is often
11 told. I have never actually gone to the text and read the
12 story in the Arabic, and because of that I wouldn't
13 authoritatively say that that is the story of Khyber. I am
14 only telling you the story as I learned it talking amongst
15 people during the course of my research.

16 Q. But that is a story or that term is used quite often in
17 Palestinian or Islamic rhetoric as an event that is to be
18 glorified. Is that correct?

19 A. Yeah. Among some Muslims that is correct. Among others
20 it is seen as more of an embarrassment.

21 Q. Apparently to these it is something to be glorified to
22 these people.

23 A. Oh, yeah, definitely.

24 Q. Did you see the Hamas flag in the scene just before this
25 picture?

1 A. That same green flag you are talking about?

2 Q. No. The Palestinian flag with the Shahada written in the
3 white part?

4 A. Yes, I did see that.

5 Q. That is the Hamas version of the Palestinian flag.

6 A. Yes. What they do is they take the Shahada and place it
7 into the flag to represent both its Islamic as well as its
8 nationalist goals.

9 Q. Just to -- Do you recall your testimony about the -- I
10 believe it was probably a later part of this same video, but
11 the skit in which Mufid Abdulqader was playing a Palestinian
12 and then some other man was playing the part of an Israeli
13 soldier, and you testified about that skit, or dramatization
14 as you recall it? Do you recall that?

15 A. The skit we just watched he played an Israeli soldier.

16 Q. No. I am talking about the one where Mufid Abdulqader
17 and the other man were on the stage by themselves.

18 A. Yes. The second skit we talked about, yes, I do recall.

19 Q. Whichever tape it was on. But you testified about that
20 skit where they were chanting or singing back and forth to one
21 another?

22 A. Yeah, the battle between them, the verbal battle.

23 Q. And this may seem like a silly question, but obviously
24 that man that was playing the part of an Israeli was not an
25 Israeli, was he?

1 A. To my knowledge, no, but I don't know him.

2 Q. Okay. You wouldn't assume that that was an Israeli
3 participating at that festival.

4 A. Yeah, that would be very unlikely.

5 Q. So the lines that were written for that person were
6 written presumably by a Palestinian. Correct?

7 A. I imagine, yeah, a Palestinian wrote both sides of the
8 story.

9 Q. Okay. So it essentially portrays one side of the story?

10 A. Well, no, actually we heard both sides of the story, but
11 we heard one opinion of both sides of the story, if that makes
12 sense.

13 Q. Okay. Just to go back, and I meant to ask you this in
14 that last segment that we were playing with the masked men
15 coming down the aisle with the Hamas head bands and holding
16 the Quran. You testified on direct examination that it was an
17 Islamist protest, but isn't it more accurate to say that it
18 was a Hamas protest?

19 A. You know, it would be difficult to say. Certainly it was
20 an Islamist protest. All of the signs there are for an
21 Islamist organization of some type. Green is the color of
22 Islam, carrying the Quran, the Saudi Arabian flag that they
23 were carrying with the Shahada on it, all of these things are
24 certainly Islamist. The flag, the Palestinian flag with the
25 Shahada on it and the green head bands are typically

1 associated with the Hamas, but other than that I think you
2 could very easily make the case that it is an Islamist
3 organization, but it is unclear if this is specifically Hamas.

4 Q. The head bands and the flags, but you don't want to say
5 that it is representing a Hamas protest?

6 A. No, no. I am saying it is possible. But I am saying,
7 you know, we would have to actually ask them. I mean, if I
8 was at this event I would have asked them.

9 Q. You were talking about the different types of songs, and
10 I am not even sure what the names of these categories that you
11 have attached or applied to these songs, but the resistance
12 songs or the militant songs that you referred to, is it fair
13 to say that regardless of what instruments are being used or
14 whether there is dancing or any of those other factors, is it
15 fair to say that the vast majority of these songs that you
16 looked at were of that type, that revolutionary,
17 confrontational, political type song?

18 A. Well, as I said, these are resistance songs, and of the
19 resistance movement. And as I also said the resistance
20 movement encapsulates a broad spectrum of both social as well
21 as political and aesthetic beliefs.

22 Q. Do you know what the official name is for Hamas?

23 A. In Arabic?

24 Q. Just in English, what its full name is?

25 A. I know what it is in Arabic.

1 Q. What is it?

2 A. Harakat al-Muqawaman al Islamiyya.

3 Q. How does that translate?

4 A. As the movement for the liberation of Palestine.

5 Q. Is it also known as the Islamic Resistance Movement?

6 A. Yes, you are right. That is the correct translation,

7 Islamic Resistance Movement.

8 Q. And you say there is all kinds of Islamist or

9 revolutionary groups. Is that correct?

10 A. There are various resistance organizations.

11 Q. And which one -- In the vast majority of these songs,

12 which ones were these individuals singing about?

13 A. Which individuals?

14 Q. The band.

15 A. The al-Sakhra band?

16 Q. Yes.

17 A. Well, it shifted.

18 Q. In the vast majority -- You said you looked at all of

19 these videotapes?

20 A. I did.

21 Q. Okay. In the vast majority of them, which resistance

22 group was being mentioned?

23 A. It is not -- Are you talking about in the text or in the

24 music?

25 Q. I am talking about in the lyrics.

1 A. Because I don't think you can make that statement by just
2 looking at the lyrics, because you would never hear the
3 folkloric type of songs at an Islamist event.

4 Q. All right. Did they make reference to Hamas over and
5 over in many of these songs?

6 A. Yes, they did.

7 Q. You are not here -- It is not your ability or your
8 purpose to tell the jury what was in the minds of these
9 people. That is not something you are endeavoring to do, is
10 it?

11 A. I don't think anyone could do that.

12 Q. Well, okay. But we can only look and see what they did
13 to infer what was in their minds. Is that a fair statement?

14 A. I don't understand.

15 Q. All right. Is it -- Strike that. You gave your opinion
16 about this skit that was shown at the end of your direct
17 examination. Do you know where that skit took place?

18 A. Which skit are you talking about?

19 Q. The one with the girls and the girl in the suicide vest.

20 A. I believe that took place in Jenin.

21 Q. Do you know where, the circumstances?

22 A. Under the circumstances it was a festival for Quranic
23 recitation.

24 Q. Actually it was a summer camp. Were you made aware of
25 that?

1 A. It was written on the sign that we saw that the summer
2 camp was about Quranic recitation.

3 Q. And again, there were persons posing as Israelis, young
4 girls posing as Israelis. And again, I realize it is a silly
5 question, but obviously they weren't Israelis. Correct?

6 A. That would be my guess, yes.

7 Q. And so whatever lines or whatever acts that they carried
8 out were prepared or directed by someone else. Correct?

9 A. I would imagine that is the case.

10 Q. Okay. And so essentially that is one side of the story
11 that is being presented there, as created by one side?

12 A. Yes, yeah, definitely.

13 Q. And in terms of the characterization, you were talking
14 about the fact that these individuals removed her scarf and
15 that that was an offensive act. Is that what your testimony
16 was?

17 A. Yes.

18 Q. In this dramatization?

19 A. Yes.

20 Q. And there was no presentation in there, no explanation
21 that perhaps that is something that is done as a security
22 measure because there are female suicide bombers. There was
23 -- None of that was presented in there. Correct?

24 A. No, there were no Israelis or Israeli settlers to
25 represent their side of that portrayal, so-to-speak.

1 Q. I mean, it would be a fair statement, would it not, that
2 the actions of a suicide bomber would be offensive. Correct?

3 A. To whom?

4 Q. To the victims, to the civilized world, those persons.

5 A. To most Palestinians as well.

6 Q. Okay. And to call it a suicide bomber is really a
7 misnomer, isn't it?

8 A. I don't know what you mean.

9 Q. In the sense it is actually homicide, murder that these
10 people are committing. Correct?

11 A. I believe the correct term is asymmetrical violence.

12 Q. Well, in terms of suicide versus homicide, they are
13 committing suicide for themselves, but they are actually
14 committing homicide against their victims. Correct?

15 A. Right. It is asymmetrical violence. It is violence that
16 you can't then go after the offenders.

17 Q. And when you talk about offensive, they can actually walk
18 and look and see the people that are going to be their
19 victims, can't they?

20 A. I have never seen how that happens or how it works, but
21 in my mind that is perhaps a possibility, yeah.

22 Q. Okay. I mean, they can walk into a group of people and
23 they know that the people around them are about to be dead,
24 whether they are children, old people, whomever. Correct?

25 A. Yeah, I would say correct.

1 Q. Would you regard that as offensive?

2 A. Oh, to me personally? Are you asking about me
3 personally?

4 Q. Yes.

5 A. Yeah, of course I find it extremely offensive.

6 Q. So in the sense that these skits, if you will -- Let me
7 back up for a second. You made a point, in this skit with
8 these young girls, it became clear to you in their lyrics that
9 when they were making the statement about "You sold my
10 homeland" or "You sold my land," that they were talking about
11 the Palestinian leadership. Correct?

12 A. That would be my interpretation, yes.

13 Q. Okay. And that would be Yasser Arafat and the
14 Palestinian Authority, or the group that is in power?

15 A. It would mean actually a lot of different people. It
16 could mean Arafat. It could mean leadership in the
17 Palestinian Authority. It could also mean those who
18 voluntarily left Palestine. It could mean those who sold
19 their land to Jewish immigrants. It could mean those who are
20 collaborators with Israel or those who have tried to somehow
21 benefit from the occupation. It could mean, actually, very
22 generally anyone who has aided in some way the occupation of
23 Palestine.

24 Q. Well, now, on direct examination you really said it was
25 the Palestinian -- I believe you said the Palestinian

1 leadership.

2 A. I think in this example she is making a very clear
3 statement against the Palestinian leadership, yes, but she is
4 also saying in effect those who sold the homeland, meaning any
5 of these other people as well.

6 Q. And one of the things you said, a lot of Palestinians in
7 fact sold their land to Jewish immigrants. Correct?

8 A. Well, this is true among wealthy landowners during the
9 mandate period who held a great deal of land in Palestine but
10 actually lived in Damascus, and peasants were working the land
11 for them. So when they sold the land, these Jewish immigrants
12 showed up and said, "This is our land," and the farmers who
13 had been basically sharecropping the land for hundreds of
14 years were forced off. So they talk about absentee ownership
15 of Palestinian land sold to Jewish immigrants.

16 Q. I believe earlier in your testimony you said that she was
17 criticizing Palestinians who had sold their land to Jewish
18 immigrants. Correct?

19 A. Yes.

20 Q. Okay. But with regard to her criticism of the
21 Palestinian leadership, she obviously didn't take any action
22 in this skit -- They didn't go and blow up Yasser Arafat or
23 any other individuals. Correct?

24 A. Given a lack of public sphere for airing those kinds of
25 political beliefs, or a chance for a participation in local

1 governorates, democracy, without those kinds of things I doubt
2 that was an option she felt was available to her. But that is
3 my interpretation.

4 Q. Okay. And that was not my question.

5 A. I am sorry.

6 Q. But you have made your statement. So she didn't talk
7 about getting out the vote or doing anything -- And this is --
8 What year was this?

9 A. This was '04.

10 Q. Okay. And Arafat in fact may have been dead by then.

11 Correct?

12 A. Not quite.

13 Q. Okay. So they weren't talking about taking action
14 through the electoral process or anything else to seek -- to
15 obtain their objectives, even though she says that she is
16 being critical of the Palestinian leadership. That is not the
17 solution that these children were showing in this skit, was
18 it?

19 A. No. Her -- No.

20 Q. These individuals that you observed in these skits, and
21 the band and the songs that were sung, presumably they could
22 have sung about any organization that they wanted to in their
23 lyrics. Correct?

24 A. You know, I doubt it. Oftentimes in these kinds of
25 performances there is a kind of an approach to their concert.

1 I mean, I am sure they could have.

2 Q. Okay. They didn't sing about the PLO.

3 A. Well, no, not in their lyrics they didn't. However, the
4 music they did perform was often associated with the PLO.

5 Q. But the lyrics were regarding Hamas. Correct?

6 A. But especially the song "Raja Raja Raja," that was a song
7 made famous by a PLO ensemble, so they are basically doing a
8 cover of a group that was PLO.

9 Q. Did they put lyrics in there, at least in most of these
10 songs -- I believe you already testified most of these songs
11 were sung in praise or support of Hamas.

12 A. Well, you know, that particular song is a great example.
13 That song you would haven't to put PLO in the lyrics, because
14 everyone already knows the song and they already associate it
15 with the PLO. If you hear someone singing Elton John, you
16 know it is an Elton John piece. You don't have to hear them
17 say it is an Elton John piece.

18 Q. But they didn't sing about the Popular Front for the
19 Liberation of Palestine, they didn't sing about the Popular
20 Front for the Liberation of Palestine General Command, they
21 didn't sing about Islamic Jihad. They sang about Hamas in
22 terms of the terrorist groups that they specifically sung
23 about. Correct?

24 A. Well, my testimony is that in music you don't necessarily
25 have to say the word in order for people to get the meaning.

1 Q. Okay.

2 A. You can get things out of melodies and rhythms.

3 Q. And with regard to -- I suppose you didn't look at the
4 activities that were going on around these songs. By that I
5 mean the speeches and the collection of funds and that type of
6 thing.

7 A. I had so much material with just the performances that I
8 stuck specifically with those.

9 Q. Let me direct your attention -- You were asked about I
10 believe it was an exhibit which has been labeled HLF Search
11 No. 112.

12 MR. JACKS: Jim, do you have that?

13 Q. (BY MR. JACKS) And you were asked about the first clip,
14 and this is a video from 1996 I believe. Do you have that
15 list up there?

16 A. Yes, I do.

17 Q. Does that correspond to what you have?

18 A. You said HLF --

19 Q. HLF Search No. 112.

20 A. Yes, 1996.

21 Q. Okay. And I think your testimony was that there was
22 no -- There was nothing that gives any indication -- Let's
23 just look at it, please.

24 MR. JACKS: If you would play the first clip,
25 please.

1 (Whereupon, HLF Search No. 112-A was played, while
2 questions were propounded.)

3 Q. (BY MR. JACKS) And that specifically says, "This is a
4 conference of the Islamic Association for Palestine, the
5 Islamic cause." And do you recall this is the one that you
6 were talking about that there is nothing that gives any
7 indication it is about Hamas? Is that what your testimony was
8 about this clip?

9 A. In speaking specifically about the performance, yes.

10 Q. Okay.

11 MR. JACKS: Would you go to the next clip?

12 Q. (BY MR. JACKS) This is a clip from the same festival.

13 (Whereupon, HLF Search No. 112-B was played, while
14 questions were propounded.)

15 Q. (BY MR. JACKS) Do you know who that is?

16 A. That is Mr. Abdulqader.

17 Q. Who does he making reference to there and praising or
18 sending greetings to?

19 A. Sheikh Ahmed Yassin.

20 O. And who is he?

21 A. He was the founder of Hamas.

22 0. Do you know who Doctor Al-Rantisi is?

23 A. Yes. He was the second -- basically the vice president,
24 I guess you would call it, of Hamas.

25 Q. Do you know who Mousa Abu Marzook is?

1 A. I know the name, but I know very little about him.

2 Q. Do you know his connection to Hamas?

3 A. No, I don't actually.

4 Q. Were you aware or were you made aware that many of these
5 videos that you looked at had been buried in a man's backyard,
6 and some of them in fact had been burned?

7 A. I heard that story yesterday when I got -- Excuse me.

8 When I got to Dallas I heard that story for the first time.

9 MR. JACKS: May I have a moment, Your Honor?

10 THE COURT: Yes.

11 MR. JACKS: I pass the witness, Your Honor.

12 THE COURT: Ms. Cadeddu?

13 MS. CADEDDU: No further questions, Your Honor.

14 THE COURT: Doctor McDonald, you are free to go.

15 Call your next witness.

16 MR. WESTFALL: Your Honor, the Defense calls

17 Mr. Wafa Yaish.

18 (Whereupon, the oath was administered by the Clerk.)

19 WAFA YAISH,

20 Testified on direct examination by Mr. Westfall as follows:

21 Q. Would you please state and spell your name?

22 A. It is Mohammad, M-O-H-A-M-M-A-D, Wafa, W-A-F-A, Yaish,
23 Y-A-I-S-H.

24 Q. What do you do for a living?

25 A. I am currently CPA.

1 Q. What do you do as a CPA?

2 A. Tax and accounting consultant. I prepare income taxes,

3 and at the same time financial reporting for clients.

4 Q. Okay. Where were you born?

5 A. I was born in the city of Nablus in the West Bank.

6 Q. And where did you grow up?

7 A. I grow up in Kuwait.

8 Q. Did you go to school in Kuwait?

9 A. Yes, sir.

10 Q. Did you graduate from college in Kuwait?

11 A. Yes, sir.

12 Q. Where did you go to college?

13 A. I went to Kuwait University, graduated with a bachelor

14 degree in accounting, and then I pursued my Master's degree in

15 the United States in southern Oklahoma, Oklahoma State

16 University with a Master's in business administration.

17 Q. Okay. And then did you get your CPA?

18 A. Yes, sir.

19 Q. What year did you come to the United States?

20 A. The first year I came in in 1981 to get my Master's

21 degree, and I finished it in the end of December of 1983, and

22 I went back to Kuwait to pursue my career.

23 Q. And when did you come back?

24 A. I came back after the Iraqi invasion to Kuwait, and that

25 was in December of 1990.

1 Q. And have you since become a citizen of the United States?

2 A. Yes, sir. I became a citizen in 1996.

3 Q. And are you -- You mentioned CPA. Are you actually a

4 licensed CPA?

5 A. Yes, sir.

6 Q. And what is that?

7 A. It is a certified public accountant, and it is a license

8 to practice accounting and auditing within the state of Texas.

9 Q. Okay. Was there a time when you worked with the Holy

10 Land Foundation?

11 A. It was in April of 1997.

12 Q. Okay. And you were with the Holy Land Foundation until

13 it closed?

14 A. Yes, sir.

15 Q. How did you come to get a job with the Holy Land

16 Foundation?

17 A. Well, actually, you know, after I got my CPA degree in

18 1996, I was working with Danka Industries in Las Colinas, and

19 I needed to start my CPA business, and I started giving out

20 cards, business cards I mean, to local communities. And I

21 don't know how my business card got into the hand of

22 Mr. Shukri Abu Baker at that time, but he called my home and I

23 wasn't there at that time, and my wife answered the phone.

24 And he was actually looking to talk to a lady named Wafa,

25 because my name can be both a guy and a girl. And he didn't

1 know I was a guy at that time.

2 And he asked about me if she is available, and my wife
3 told him no, he is not a she. And he left his number. And
4 when I came back home, I called him and, you know, he asked
5 me, you know, if I am interested in getting an accounting job
6 with the Holy Land Foundation. So it was an interview at that
7 time, and we went from there.

8 Q. And were you already a CPA at that point?

9 A. Yes, sir.

10 Q. And up to that point had you had any experience in like
11 running an accounting department of a non-profit organization?

12 A. No, sir.

13 Q. So you started working in April '97?

14 A. That is correct.

15 Q. When you came to work at the Holy Land Foundation in
16 April of '97, can you tell us what departments there were in
17 the Holy Land Foundation?

18 A. If I remember, there was the Social Service Department,
19 there is the Projects Department, and there was the National
20 Program, if I remember correctly. Those are the departments
21 that I remember.

22 Q. Okay. The Projects Department, what did they do?

23 A. Well, they were in charge of projects overseas, you know.
24 They will be receiving some proposals from local zakat
25 committees and some other non-profit organizations, you know,

1 proposals to seek some help and assistance in providing funds
2 for those projects.

3 Q. Right. And who was in charge of that division, that
4 department?

5 A. It was Bassam Faris, I think he was the head of the
6 Project Department.

7 Q. Would you please spell that?

8 A. It is Bassam, B-A-S-S-A-M, Faris, F-A-R-I-S.

9 Q. Very well. And what sorts of projects was the Holy Land
10 Foundation doing when you first started working with them?

11 A. There was some seasonal projects and there are some what
12 they call capital projects.

13 Q. Seasonal projects and what kind of projects?

14 A. Like capital projects.

15 Q. Capital projects?

16 A. For the capital projects there was, you know, medicals
17 like, you know, funding hospitals or buying some medical
18 equipments, you know, or could be some, you know, community
19 projects like, you know, providing some pure water, or some
20 development projects like, you know, buying sewing machines to
21 small families or, you know, what they call it? Buying, you
22 know, some chickens and, you know, goats, they can raise for
23 the farmers.

24 Q. Okay.

25 A. Those type of projects.

1 Q. Okay. The Social Services Department, first of all, who
2 ran the social Services Department?

3 A. Ibrahim al-Samneh. He was the head of the Social
4 Services Department at that time.

5 Q. Okay. And then please spell Ibrahim al-Samnah.

6 A. Ibrahim is I-B-R-A-H-I-M, al, A-L, Samneh, S-A-M-N-E-H.

7 Q. Thank you. Now, what things did Social Services do?

8 A. Social services were in charge of the orphans, needy
9 children and needy families. It is like a sponsorship program
10 for the orphans and the needy children and the needy families.

11 Q. Okay. And then you mentioned National Programs. First
12 of all, who headed that?

13 A. Headed by Omar Salim and it was the local within the
14 United States programs that would be performed within the
15 United States.

16 Q. Okay. And what sorts of things were done by that
17 department?

18 A. Well, you know, like the Oklahoma bombing at that time, I
19 mean, they went and donated some blood, and during the
20 Oklahoma tornado also, I mean, and they have done some
21 community service to clean up the debris and providing some
22 assistance, and also at the same time public services and
23 community outreach.

24 Q. Okay. So that department, basically all of the aid and
25 sort of relief activities you did in the United States was

1 covered by them?

2 A. Correct.

3 Q. And when you first came on in 1987, was there an
4 accounting department per se at the Holy Land Foundation?

5 A. It was 1997, not '87.

6 Q. Did I say '87? '97.

7 A. There was an outside CPA that was doing their books at
8 that time.

9 Q. Okay. And then when you were brought in, I guess you
10 came to be in-house. Did you understand that you were going
11 to kind of start an accounting department in the Holy Land
12 Foundation?

13 A. Yes, sir.

14 Q. Once you started working in '97, what steps did you take
15 to start an accounting department or to establish an actual
16 in-house accounting department?

17 A. Well, at the beginning, I mean, I started collecting
18 information that was available at that time, you know, from
19 the previous records, and I start putting some procedures, you
20 know, and control procedures in order to make sure, you know,
21 everything goes in the books, you know, being fully documented
22 with proper back-ups, and start maintaining proper files and
23 proper records from that point, you know, until the close of
24 the Holy Land Foundation.

25 Q. And did you start to shop for some new kind of software,

1 accounting software for the organization?

2 A. Yes, sir. I mean, at the beginning, I mean, they were
3 using like an off-the-shelf software called Myob, which is a
4 very cheap software, and that was not -- could not help the
5 purpose of a growing the Foundation. So I start shopping for
6 specific software that fits the non-profit organization
7 criteria.

8 Q. Okay.

9 A. And the name of the software at that time was Blackbaud.

10 Q. And tell us about the process that you went through to
11 get that up and running.

12 A. Well, at the beginning I start shopping and contacting
13 different vendors that are specified in the non-profit
14 organizations, and we start calling them to give us some, you
15 know, what you call it? Presentations about their softwares,
16 you know. And at that time, if I remember, I contacted either
17 three or four different companies and they came in at
18 different times to do presentations and give us a demo of
19 their softwares.

20 And I start going over, you know, each different ones,
21 you know, to see which one is the best to choose, and I
22 decided to go with the Blackbaud because they were more
23 specific in the non-profit than any other softwares.

24 After we chose the software, I went for three to four
25 days training, you know, at their headquarters and came back

1 for the implementation of the software.

2 Q. Now, before this you mentioned you worked at Danka?

3 A. Yes, sir.

4 THE COURT: Let's take a 20-minute break. That
5 clock is about ten minutes off, but we will try to get that
6 fixed. But let's take a 20-minute break.

7 (Whereupon, the jury left the courtroom.)

8 MR. WESTFALL: I got an email from Jennifer that you
9 had not seen Defendants' No. 858, which is a DVD.

10 THE COURT: And maybe 197, or something like that.

11 MR. WESTFALL: Right. No. 858 is mine.

12 THE COURT: You will address that one. All right.

13 MR. WESTFALL: The DVD itself is actually very long,
14 and I don't intend to put that into evidence. What I have is
15 an under five-minute quick time clip without sound that
16 Mr. Jonas and I have watched yesterday evening, and the basis
17 for admission would be he can recognize my client and some
18 Holy Land Foundation, you know, unique logos and distinctive
19 characteristics.

20 THE COURT: Do you have objections?

21 MR. JONAS: To the extent he can't go beyond saying
22 that is Odeh and that is an HLF logo. It was filmed. I don't
23 know if it was Gaza or the West Bank. But unless he can say
24 "I was there, this fairly and accurately depicts what is in
25 the video," we object to foundation.

1 THE COURT: I guess we have to see what the
2 foundation is. Once you lay the foundation --

3 MR. WESTFALL: Very well.

4 THE COURT: Ms. Duncan, I think there was another
5 excerpt you identified in that list of exhibits.

6 MS. DUNCAN: We notified the Government that we were
7 not intending to play that.

8 THE COURT: All right. We will be in recess -- Let
9 me ask counsel to come up before you leave.

10 (Discussion at the bench, out of the hearing of the
11 reporter.)

12 (Brief recess.)

13 THE COURT: Mr. Westfall?

14 MR. WESTFALL: Thank you, Your Honor.

15 Q. (BY MR. WESTFALL) Mr. Yaish, what did you do with Danka?
16 First of all, what is Danka?

17 A. It is a copier company that they sell office equipments
18 and lease it to businesses.

19 Q. And what did you do with them?

20 A. I was a regional accountant, you know, in charge of the
21 midwest region, you know, in terms of the accounting.

22 Q. Okay. And what sorts of things did you do in that
23 capacity?

24 A. Well, I prepared the financial statements, the balance
25 sheet and income statement for the midwest region. At the

1 same time I was, you know, in charge -- I mean, in constant
2 contact with the sales offices in the midwest region to get,
3 you know, the reporting from them in order to incorporate it
4 into, you know, the headquarter's financials.

5 Q. Okay. So was there in Danka, I guess, like a home office
6 that had an accounting department that you then had to answer
7 to?

8 A. Yes, sir.

9 Q. What did you do before Danka?

10 A. I was an external auditor with Thompson, Curtis,
11 Presidio, and Associates located in the Washington, D.C. area.

12 Q. What did you do there?

13 A. I was an auditor. Mostly we done at that time the
14 savings and loan banks, the failed savings and loan banks that
15 has been given to the RTC, the Resolution Trust Corporation at
16 that time, and the RTC gave those portfolios to some local
17 portfolio managers to maintain it and to sell it.

18 Also as outside auditors, you know, just to ensure that,
19 you know, the maintenance and the sales of those portfolios
20 are being done according to the Yellow Book at that time,
21 which is the government's audits.

22 Q. So in the -- I guess it would be the assets of bankrupt
23 S&Ls?

24 A. That is correct.

25 Q. You just kind of took stock of those and then made sure

1 that that got done the right way?

2 A. Yes. I mean, they would make sure they were maintained
3 correctly and were they being disposed or sold according to
4 the Resolution Trust Corporation guidelines.

5 Q. And did you have any other accounting jobs before that?

6 A. Overseas jobs, yes.

7 Q. In Kuwait?

8 A. In Kuwait.

9 Q. Okay. When did you actually get the Blackbaud system
10 implemented?

11 A. Early 1999, January of 1999.

12 Q. And before this had you -- I guess it didn't sound like
13 you had any experience with a 501(c)(3) corporation.

14 A. Well, I don't have any experience, but I know what is the
15 501(c)(3).

16 Q. Okay. But the Blackbaud, was that actually kind of set
17 up for a 501(c)(3)?

18 A. The system, yes.

19 Q. Were you familiar during your employment also with the
20 office managers of the Holy Land Foundation?

21 A. Yes, sir.

22 Q. Okay. Who were the office managers, just generally?

23 A. Abdulrahman Odeh was in charge of the New Jersey office,
24 Kifah Mustapha was in charge of the Chicago office, and we had
25 an office in Tampa, Florida headed by Riad Musa.

1 Q. Do you want to spell that?

2 A. Riad is, R-I-A-D, Musa, M-U-S-A.

3 Q. Okay.

4 A. And there was a guy in charge of the Michigan office, but
5 I cannot remember his name.

6 Q. Okay. How often would you see -- Now, were you
7 headquartered or did you stay in the main office in
8 Richardson?

9 A. Yes, sir.

10 Q. How often would you see Abdul Odeh?

11 A. Probably twice a year.

12 Q. And that would be down here?

13 A. Yes, sir.

14 Q. I want to talk a little bit about recordkeeping at the
15 Holy Land Foundation. Okay? How was money disbursed? When I
16 say disbursed, you know what that means, but how was money
17 spent at the Holy Land Foundation?

18 A. Well, there is two ways of disbursing the money--either
19 by checks or by wire transfers.

20 Q. Okay.

21 A. Checks mostly for the local within the United States.
22 Wire transfers would be international.

23 Q. And what kinds of records did you keep as a part of your
24 job?

25 A. Well, for the checks I would keep check stubs to be kept

1 in numerical order, and all the back-up documentation, you
2 know, that back-up of the writing of the check itself.

3 For the wire transfers, I will keep the wire transfer
4 advice that is, you know, originated within the Holy Land
5 Foundation, and the authorization of the wire transfer also,
6 and the bank advice that wired the money.

7 Q. And we will get into some of those a bit more in a little
8 bit. Was it your understanding that the Holy Land Foundation
9 had those same types of documents all the way back to the
10 early '90s?

11 A. Yes, sir.

12 Q. Did there come a time when you started putting together a
13 fairly formal monthly financial statement?

14 A. Yes, sir.

15 Q. And when was that?

16 A. January of 1999. That is, you know, when I implemented
17 the Blackbaud.

18 MR. WESTFALL: Your Honor, may I approach?

19 THE COURT: Yes.

20 Q. (BY MR. WESTFALL) Mr. Yaish, I have handed you what has
21 been marked for identification as Defendants No. 1410. And
22 first of all, do you recognize that document?

23 A. Yes, sir.

24 Q. Okay. Is this a record that you kept in the ordinary
25 course of your business with the Holy Land Foundation?

1 A. Yes, sir.

2 Q. And are all the entries in this record basically put in
3 by you?

4 A. Either by me or by my assistant Rhonda Harb.

5 Q. And when you all put these entries into this record, did
6 you have knowledge of what the entries were?

7 A. Yes, sir.

8 Q. And did this all happen at or near the time that the
9 events, meaning the expenditures and whatnot, in this
10 occurred?

11 A. Yes, sir.

12 Q. And was it the ordinary course of business of the Holy
13 Land Foundation and you to keep this record?

14 A. Yes, sir.

15 MR. WESTFALL: Your Honor, at this time we will move
16 for admission of Defendants' No. 1410.

17 MR. JONAS: No objection.

18 THE COURT: Admitted.

19 MR. WESTFALL: May I approach the witness?

20 THE COURT: Yes.

21 Q. (BY MR. WESTFALL) Now, is Defendants No. 1410 one of
22 those financial statements?

23 A. Yes, sir.

24 Q. I will put on the first page. Is this the financial
25 statement for July of 1999?

1 A. Yes, sir.

2 Q. I would like to just kind of go through this a little bit
3 and so we can explain kind of what made up one of these
4 financial statements.

5 Page 2, what is this?

6 A. This is the table of contents what is included in the
7 financial statements.

8 Q. Okay. And there was three on there that I have
9 highlighted.

10 A. Balance sheet, income statement, and detailed general
11 ledger.

12 Q. Okay. What is a balance sheet, just for --

13 A. Well, the balance sheet is a form of financial reports
14 which include the assets, liabilities, and the fund balances,
15 you know.

16 Q. And is this what one of those looks like?

17 A. Yes, sir.

18 Q. Current assets and then investments and such?

19 A. Yes, sir.

20 Q. And then you said liabilities?

21 A. Yes, sir.

22 Q. The next thing down, what is that?

23 A. The income statements is also part of the financial
24 reports, which include all the revenues and expenses or
25 expenditures, you know, of the Foundation during that month.

1 Q. This is the first page of the income statement. Can you
2 see that on there?

3 A. Yes, sir.

4 Q. What are these things over here?

5 A. Those are codes that would be given to each particular
6 account, because the accounting system is based on codes, so
7 we have to give it a coding in order to identify every
8 account, you know, in the system.

9 Q. And when you say codes, are these actual bank accounts?

10 A. No, sir. Like for instance the 6110 is under the awards
11 and grants, you know, the 010 is for the social services, if I
12 recall. No. I am sorry. 10 is for the social services
13 if -- It is kind of -- It has been a long --

14 Q. This 010 is what you are talking about?

15 A. Yes, sir.

16 Q. Okay. What exactly went into social services for
17 purposes of your expenditures here?

18 A. In the social services would be the orphan dues, family
19 dues, or needy children dues, or any gifts given to the
20 orphans, to the families, or to the needy children.

21 Q. The next one down is educational services. What is that?

22 A. It goes to the children, I mean, you know, our sponsoring
23 some children at schools. So if anything goes to their
24 education or the sponsorship of the students, it would go
25 under that one.

1 Q. What about health services? What is that?

2 A. Any health-related health services like a hospital,
3 medical equipment, medical supplies would go under, you know,
4 the health services.

5 Q. How about economic development?

6 A. For the projects, you know, any projects done, you know,
7 overseas, you know, will go under the economic development,
8 especially trying to develop, you know, the needy families or
9 anything, you know, will go under the economic developments.

10 Q. Like the development of the communities?

11 A. Yes.

12 Q. Chicken farms?

13 A. Chicken farms or buying sewing machines, you know, it
14 goes under the economic developments.

15 Q. Are you saying sewing machines?

16 A. Sewing machine.

17 Q. S-E-W-I-N-G?

18 A. Uh-huh.

19 Q. Okay. Special programs, what is that?

20 A. This is a seasonal program, like, you know, food packages
21 during the month of Ramadan or Eid gifts would go under this
22 program.

23 Q. Okay. What is Eid?

24 A. Eid, it is a day that comes after Ramadan or the day
25 comes after the pilgrimage in Mecca, you know, or during the

1 pilgrimage in Mecca. Those are, you know, the first one after
2 Ramadan, we call it Eid el-fitr. And the second one, which is
3 the sacrifice, you know, when Prophet Abraham sacrificed his
4 son, we celebrate that day by sacrificing sheep or goat or
5 cow.

6 Q. Would the Holy Land Foundation buy gifts for the needy
7 over in Palestine or wherever on those dates?

8 A. Yes, sir.

9 Q. And would that be the kind of thing that would come under
10 special or seasonal programs?

11 A. That is correct.

12 Q. What would be emergency relief?

13 A. This is when there is an emergency or catastrophe
14 somewhere, we will be collecting some funds as an emergency
15 relief, you know, like, you know, what happened in Turkey or
16 in Kosovo, those type of emergency relief.

17 Q. Okay. Skip down to -- Now, these community outreach,
18 management, and general, and fundraising, what were those?

19 A. The community outreach is the national program that we
20 have at the national level and local level. You know,
21 management and general, of course, is, you know, which is the
22 management expenses.

23 Q. Right.

24 A. Fundraising, whatever we use to -- you know, for
25 fundraising.

1 Q. And then we see here gifts in kind. Could you please
2 just explain to the jury real quick what gifts in kind are?

3 A. Gifts in kind is the non-cash items that we used to
4 receive, you know, because either we received cash which is
5 monetary items, or non-cash items like clothes, books, some
6 medical supplies, medical equipment. So those type of
7 non-cash items will go under gift in kind.

8 Q. Okay. Now, finally we have highlighted this detailed
9 general ledger. What is that?

10 A. The general ledger is also a form of financial reporting
11 that will capture all, you know, the accounts that we use, you
12 know, in the Foundation, any accounts we using like the cash
13 or the bank accounts or the type of expenses or type revenues
14 will be captured under the detailed general ledger.

15 Q. And would that be kind of the total break-down of all of
16 your expenses?

17 A. Yes, sir.

18 Q. Okay.

19 A. Not only the expenses but also the revenues.

20 Q. The revenues as well?

21 A. And the assets accounts also, and the liabilities
22 accounts as well, and the fund accounts.

23 Q. And we will visit with that a little bit.

24 Now, from just the standpoint of the mechanics of a
25 transaction, let's focus on a social services transaction.

1 First of all, this is already in evidence as Defendants' No.
2 1363. It is pages 26 through 36. Would this be what is
3 considered a social services transaction?

4 A. Both social services and education.

5 Q. And education. Okay. Where would this particular
6 transaction start out in the Holy Land Foundation?

7 A. Well, it starts with the lists of the dues, whether it is
8 for the orphans or the family or the students generated by
9 that department requesting the wire transfers.

10 Q. Okay.

11 A. And based on the lists that he will prepare, this request
12 for the wire transfer is broken down by how much, you know,
13 the orphans' dues are and how many orphans are on the list.
14 Same thing for the students, how many students on the list and
15 how much their dues. And for the families, how many families
16 on the list and how much their dues.

17 Q. Okay. And then once the Social Services Department has
18 put that together, then what happens?

19 A. Well, they will send the lists with the requests to
20 either Shukri or Ghassan Elashi for authorization.

21 Q. Okay. And what would they do?

22 A. Well, they will authorize, you know, the wires, and after
23 that it goes to Haitham Maghawri, you know, for, you know,
24 sending the wires through the bank.

25 Q. Okay. And then what would happen? What is the next

1 step?

2 A. The package with the authorization, it will come to me,
3 you know, to verify that the wire transfers -- The bank will
4 be calling me in order to verify the amounts on the wire and
5 the recipients, which is account numbers, are correct.

6 Q. What would you do before you verified the wire transfers
7 on one of these social services transactions?

8 A. I will match the amounts that is written over here with
9 the totals on the orphan dues lists. At the same time I will
10 match the total amounts written on the wire transfer request
11 to the students lists, and I will match also the families
12 amount dues with the families list.

13 Q. Okay. And then assuming those matched, then what?

14 A. The bank, of course, will be contacting me, you know. I
15 will make sure that this is the correct amount that has been
16 wired and been wired to the right account number and the right
17 recipients. And if everything is okay, I will tell them yes,
18 you know, the information is correct, and they will release
19 the wire, you know, to the recipients.

20 Q. Okay. And then what happened with this packet?

21 A. The original list, I will send it back to the originating
22 department, which could be the Social Services, and I will
23 keep a copy of the wire transfer, you know, request, with the
24 authorized signatures, along with, you know, the bank advice
25 that I will receive, you know, during the month. Those

1 documents -- I will initiate a journal voucher to how to
2 allocate the expenditure of the wire transfers.

3 Q. You mentioned that you would give the lists back to the
4 Social Services Department. Were they the ones that held onto
5 the lists after you were finished with them?

6 A. Yes, sir.

7 Q. How about receipts from expenditures, like in the
8 programs or whatnot?

9 A. They would be kept at the project departments.

10 Q. Okay. And then how about if an office, like the New
11 Jersey office, expended some money and had a receipt? Where
12 would those be kept?

13 A. The receipts themselves, they will be kept at the local
14 office, but they will send me a monthly reporting of all of
15 their expenditures and, you know, the collection of the money.

16 Q. Okay.

17 MR. WESTFALL: May I approach again, Your Honor?

18 THE COURT: Yes.

19 Q. (BY MR. WESTFALL) I have set before you Defendants
20 No. 1413. And do you recognize that?

21 A. Yes, sir.

22 Q. And is this also a record that you kept in the ordinary
23 course of your business?

24 A. Yes, sir.

25 Q. And are all the entries basically put in by either you or

1 again Ms. Harb?

2 A. Yes, sir.

3 Q. And was it your ordinary course of business, the Holy
4 Land Foundation's ordinary course of business to keep this
5 record?

6 A. Yes, sir.

7 Q. And all the entries were put in at or near the time that
8 they actually occurred?

9 A. Yes, sir.

10 MR. WESTFALL: Your Honor, I move in Defendants
11 No. 1413.

12 MR. JONAS: No objection.

13 THE COURT: Admitted.

14 Q. (BY MR. WESTFALL) Now, you mentioned earlier journal
15 vouchers.

16 A. Correct.

17 Q. Is that what this is is the journal vouchers that kind of
18 correspond with the July 1999 finance statement?

19 A. Yes, sir.

20 Q. This is the second page of the exhibit, and I just want
21 to -- Is this a journal voucher?

22 A. Yes, sir.

23 Q. What is this here?

24 A. This is the coding that I am talking about. That would
25 be reflected to an account in the general ledger.

1 Q. Okay. And I notice the codes are different.

2 A. Yeah. The first one is to the bank account, which is the
3 debits, and the second one is the revenue account which is the
4 credit.

5 Q. And --

6 A. This amount has been deposited in the New Jersey to --
7 that particular account number could be, you know, the revenue
8 account in New Jersey office.

9 Q. Now, I would like to go back to using the journal
10 vouchers and the July '99 financial statement, and this same
11 Tulkarem zakat social services transaction, and just kind of
12 demonstrate how this fits into your financial statement.

13 Okay?

14 A. Okay.

15 Q. Now, do you see up here in the upper left hand corner?

16 A. Can you make it a little bit clearer?

17 Q. Is it not clear where you are?

18 A. No.

19 MR. WESTFALL: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q. (BY MR. WESTFALL) Let me give you the hard copies. Now,
22 what is this on the left side of the screen? And it is the
23 same as the top sheet if you need to see the hard copy.

24 A. This is the request for the wire transfers that has been
25 put by the Social Services, you know, the total amount what

1 goes to the Tulkarem zakat committee, and what is made up of
2 this total amount, which is the 50 orphans' dues, 3 students
3 dues, and 5 families dues.

4 Q. On the far right hand side, is that your initial?

5 A. Yes, sir.

6 Q. At what point would you have done that?

7 A. When I verify, you know, those totals with the lists.

8 Q. And these three documents that are on the upper right
9 hand side of the screen, they are kind of small on this
10 particular slide, but what are they?

11 A. Those are the authorization of Mr. Ghassan Elashi to
12 authorize the wire transfers.

13 Q. And would this have been done before it came to you?

14 A. Yes, sir.

15 Q. And then down on the lower right hand, what are those?

16 A. Those are the dues or the list for each one for the
17 orphans, the families, and the students.

18 Q. Now, what do we see here?

19 A. I see the orphan lists, how much the total dues, which is
20 \$4,306, and the same amount on the requests for the wire
21 transfers.

22 Q. Okay. So is this what you are talking about when you
23 verified that the amounts matched?

24 A. Yes, sir.

25 Q. Now, would you approve a Social Services transaction if

1 you didn't have these lists?

2 A. No, sir.

3 MR. WESTFALL: If we can go to the next slide.

4 Q. (BY MR. WESTFALL) And what is this?

5 A. This is the family dues lists, which shows the total
6 amounts that need to be wired and the authorization of
7 Mr. Ghassan Elashi for the same amount on the request of the
8 wire transfer.

9 Q. And this is family dues?

10 A. Correct.

11 MR. WESTFALL: Could we go to the next one?

12 Q. (BY MR. WESTFALL) Finally, what is this?

13 A. This is the student dues, you know, the list -- how much
14 the total amount of the dues and how much the request for the
15 wire transfer.

16 MR. WESTFALL: May I have one moment?

17 THE COURT: Yes.

18 Q. (BY MR. WESTFALL) Okay. What is this that we see here?

19 A. This is the bank advice of the wire transfer.

20 Q. First of all, the red arrow, does that amount match?

21 A. (Indicating.)

22 Q. Now, at what point would you get one of these?

23 A. This is after the wire transfer has been made and the
24 bank will send us an electronic payment advice just to let us
25 know that the wire had been transferred.

1 Q. And then what would you do with this?

2 A. I will make a journal voucher, you know, and allocate the
3 amount to the different type of accounts, you know, like to
4 the family dues, which is under Social Services, and to the
5 education program which is, as we saw, the student dues.

6 Q. At this point had you already given that other packet
7 back to Social Services?

8 A. Yes, sir.

9 MR. WESTFALL: Can you hit the space bar?

10 Q. (BY MR. WESTFALL) Now, what is this?

11 A. This is the journal voucher where I made, you know, the
12 allocation to the different type of accounts.

13 Q. Okay. Do you see where the red arrows are?

14 A. Yes, sir.

15 Q. The numbers that were underneath where it is entered is
16 stamped. Are those the same amounts that we saw on the list?

17 A. Yes, sir.

18 Q. Yes.

19 A. The \$4,306 to the orphans, the \$180 to the students, and
20 the \$820 to the families.

21 MR. JONAS: For purposes of the record, can we be
22 clear if the red arrows, whether they are on the actual
23 exhibits themselves or whether Mr. Westfall has put on it for
24 the purposes of the questioning the witness.

25 MR. WESTFALL: They are only on this PowerPoint.

1 They are not on the originals.

2 THE COURT: All right.

3 Q. (BY MR. WESTFALL) At what point would you do these?

4 A. Usually the journal voucher, I will do it toward the end
5 of the month.

6 Q. Okay.

7 A. Once I collect all of the bank advice, you know, and when
8 I receive the bank statements I will do the journal vouchers.

9 Q. And then this is -- You see the initials at the bottom?

10 A. Yes, sir.

11 Q. Who is that?

12 A. This is Rhonda Harb, my assistant.

13 Q. How long did Rhonda Harb work with you?

14 A. Probably 1998 until the closure of the Holy Land
15 Foundation.

16 Q. Okay.

17 MR. WESTFALL: Could you hit the space bar again?

18 Q. (BY MR. WESTFALL) Now, what is this that we see now? I
19 have at the bottom Defendants No. 1410 page 1549. What is
20 this that we see?

21 A. This is the example of the detailed general ledger, and
22 in particular the social services account in the general
23 ledger.

24 Q. Right. And then over here on the right side we have
25 what?

1 A. This is the wire transfer funds where it shows the
2 orphans and the students and the families. And since this is
3 like a Social Services, we will see only the orphans and the
4 families amounts matching with the general ledger account
5 under Social Services.

6 Q. The other numbers that go up and down in the other dollar
7 amounts, would those be like other zakat committees?

8 A. Yeah, it could be other wire transfers, you know, during
9 the month of July.

10 Q. Okay. And then what is this?

11 A. This is also another page of the detailed general ledger
12 which in particular the education services, you know, and
13 shows the amount of the wire transfer matching the amount in
14 the general ledger.

15 Q. Okay. And this is the education services?

16 A. Yes, sir.

17 Q. Very well. And that is Defendants No. 1410 page 1550.

18 MR. WESTFALL: And let's go ahead and go to the next
19 page.

20 Q. (BY MR. WESTFALL) What is this? This is from HLF Search
21 No. 39, which is already in evidence, page 102. What is this?

22 A. This is the same, the request of wire transfer that
23 originated with the Holy Land Foundation office, and it has
24 been faxed overseas to the recipient, you know, to sign it
25 once they receive the wire transfers. And that is their

1 signatures. And they fax it back as a proof of receiving the
2 wire.

3 Q. Okay. And who kept these? What department kept these?

4 A. The originating department. I keep a copy before, you
5 know, the wire. I mean before it has been faxed overseas just
6 for my records, and the original will be kept at the
7 originating department, and in this case it is the Social
8 Services Department.

9 Q. But would they keep the receipt of the transaction as
10 well?

11 A. Yes, sir.

12 Q. Where the folks in the zakat committee said "We received
13 it"?

14 A. Yes, sir.

15 Q. Were there sometimes when salaries or Eid gifts of money
16 to employees and the such were included in these transactions
17 as well?

18 A. Yes, sir.

19 Q. And are those -- How are those accounted for in your
20 financial statement?

21 A. Well, if it says salary, it would be like under, you
22 know, management expenses, salaries, overseas.

23 Q. Okay.

24 A. If I remember, it would be included there.

25 Q. Okay. There were also -- Were there also signature

1 sheets that were sent back from the zakat committees?

2 A. Yes, sir.

3 Q. And have you actually seen these signature sheets?

4 A. Yes, sir.

5 Q. Now, tell us, did you ever deal, actually deal with the
6 signature sheets?

7 A. Yes. At the beginning when I joined the Holy Land
8 Foundation, I used to go and verify all the lists, and that is
9 the amounts that they received, you know, is matching with the
10 wire transfer. We made, of course, with the deduction of the
11 -- What do you call it? The expenses. There is a small
12 portion of expense that would be deducted from that to the
13 local zakat committee, you know, as their, you know, part of
14 their maintenance of the orphans and dealing with the orphans.

15 So I will verify the amounts that they had received, you
16 know, try to convert it to the U.S. dollars if they are
17 received in shekel, just to make sure that is, you know, the
18 kind of matching with the amount they are supposed to receive.

19 Q. Okay.

20 MR. WESTFALL: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q. (BY MR. WESTFALL) I have put before you now Defendants'
23 No. 1091. Do you recognize those?

24 A. Yes, sir.

25 Q. And are those also records that the Holy Land Foundation

1 kept in the ordinary course of its business?

2 A. Yes, sir.

3 Q. And were the entries on that made by someone with
4 knowledge at or near the time that the events that it
5 represents happened?

6 A. Yes, sir.

7 Q. And was it the ordinary course of business for the Holy
8 Land Foundation to keep those as well?

9 A. Yes, sir.

10 Q. Now, in addition, can you just tell from looking at those
11 distinctive characteristics that they are what they purport to
12 be? Without actually saying what they are, can you look at
13 that and see distinctive characteristics that makes you
14 realize that those are the real thing, the true record that
15 they purport to be?

16 A. Yes, sir.

17 0. Okay.

18 MR. WESTFALL: Your Honor, I move into evidence
19 Defendants No. 1091.

20 MR. JONAS: No objection.

21 THE COURT: Admitted.

22 O. (BY MR. WESTFALL) And what are those, Mr. Yaish?

23 A. Those are the signature lists of the orphan sponsors that
24 they received the money.

25 Q. Okay. How did an orphan come to be sponsored?

1 A. We would be receiving like applications from the fields,
2 whether it is in the Palestinian refugee camps in Lebanon or
3 in Jordan or in Gaza or in the West Bank. The Holy Land
4 Foundation have some offices within the West Bank and Gaza,
5 and we have social workers they will be studying cases, you
6 know, with the needy families or the orphans, and they will
7 send us what they call a case study along with, you know,
8 orphans applications requesting some immediate assistance for
9 those orphans.

10 At the local office, of course, the Social Services
11 Department, they will enter those names into the system or in
12 the database and they will be looking for some sponsors for
13 those orphans. Once they find the sponsors, that will be
14 included on the monthly due list or the list for, you know, a
15 sponsorship.

16 Q. So would an orphan receive any sponsorship dues if they
17 didn't actually have a sponsor?

18 A. Correct. No, I mean they would have a sponsor, you know,
19 to receive the orphans.

20 Q. Okay. So what was the process? I guess you get the
21 orphan sponsorships, and then does somebody have to find a
22 sponsor for those orphans?

23 A. Yes, sir.

24 Q. And then at that point, once the orphan has a sponsor, at
25 that point the orphan starts receiving --

1 A. Receiving some assistance from the Holy Land Foundation.

2 Q. Okay.

3 MR. WESTFALL: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q. (BY MR. WESTFALL) Now, this Exhibit No. 1091, this pack
6 of signature sheets, is this all the signature sheets the Holy
7 Land Foundation had?

8 A. No, this is only an example.

9 Q. Let me just show you one. It is page 33. And this
10 is -- That is basically what one of the signature sheets
11 looked like, isn't it?

12 A. This is the names of the orphans and the total amounts
13 that is for each orphan and how much each local office or
14 local zakat committee will take as administrative costs and
15 what has been paid to the orphan. And, of course, the
16 signature of the custodian of the orphan and with the date on
17 it.

18 Q. And then over here it appears to be a fax line. What is
19 that?

20 A. This has been faxed back by either the zakat committee or
21 the Holy Land Foundation local office overseas back to the
22 headquarters here as an evidence of distributing the funds to
23 the orphans.

24 Q. Did you actually sponsor an orphan?

25 A. Yes, sir.

1 Q. And are you familiar with what comes in the orphan
2 sponsorship, you know, the packets that come from overseas
3 from Palestine?

4 A. Yes, sir.

5 Q. What are the documents that would usually be in those?

6 A. Well, a picture of the orphan is one of the documents,
7 and the orphan application, the death certificate of the
8 father, also the birth certificate of the orphan, and a report
9 about the orphan's, you know, their situation and why they
10 need the money.

11 Q. And then where was the Social Services Department that
12 had the orphan applications in the Holy Land Foundation?

13 A. It is just two doors down, you know, the hall where my
14 office was at that time.

15 Q. So have you -- Were you able to be familiar with orphan
16 applications throughout kind of your tenure there with the
17 Holy Land Foundation?

18 A. Yes, sir.

19 MR. WESTFALL: Your Honor, may I approach?

20 THE COURT: Yes.

21 Q. (BY MR. WESTFALL) I have now set before you Defendants
22 No. 203.16, and those records there, are those records that
23 the Holy Land Foundation kept in the ordinary course of its
24 business?

25 A. Yes, sir.

1 Q. And are these -- Was it the ordinary course of the Holy
2 Land's business to keep these records?

3 A. Yes, sir.

4 Q. And were the entries in these records all made at or near
5 the time of the events that are, you know, discussed in those
6 records?

7 A. Yes, sir.

8 Q. And by a person with knowledge?

9 A. Yes, sir.

10 Q. And in addition, in your experience do these particular
11 documents carry with them the characteristics of these orphan
12 applications that you have discussed?

13 A. Yes, sir.

14 Q. To where you believe those are credible documents?

15 A. Those are like pictures of the orphans, and this is the
16 orphan application, this is the death certificate, this is
17 birth certificate. Yeah.

18 Q. Okay.

19 MR. WESTFALL: Your Honor, at this time we move into
20 evidence Defendants' No. 203.16.

21 MR. JONAS: No objection.

22 THE COURT: Admitted.

23 MR. WESTFALL: May I approach, Your Honor?

24 THE COURT: Yes.

25 Q. (BY MR. WESTFALL) Now, once again, would these be all

1 the orphan applications at the Holy Land Foundation or just a
2 sample?

3 A. Just a sample.

4 Q. I don't want to go through too many. I just want to show
5 the kind of documents we would expect to see in these.

6 This is the first page. Is this the picture of the
7 orphan you are talking about?

8 A. Yes, sir.

9 Q. And then what is this?

10 A. This is the orphan application.

11 Q. Okay. These documents like this, are these the birth and
12 death certificates that you talked about?

13 A. This is a birth certificate.

14 Q. And are those oftentimes in either Arabic or Hebrew?

15 A. Yes, sir.

16 Q. Here is one -- Is this one, then, in Arabic from the PA?

17 A. Yes, sir.

18 Q. What is this?

19 A. This is death certificate of the father.

20 Q. Okay.

21 A. Of the orphan.

22 Q. Did you all have on some sort of regular basis staff
23 meetings at the Holy Land Foundation?

24 A. Yes, sir.

25 Q. And did you speak about the projects that were ongoing by

1 the Holy Land Foundation in those?

2 A. Yes, sir.

3 Q. Kind of tell us about that. Without getting into a whole
4 lot what people said, tell us kind of what that would consist
5 of when you all talked about projects.

6 A. Well, usually it is staff meetings for the head of the
7 departments, and I am not sure whether it was weekly or
8 monthly, but I remember we used to have at least once a month.
9 And each department head would be talking about the progress
10 in their department during that period, and what they have
11 been -- what they accomplished and what is still outstanding.

12 Q. And were you all shown pictures of projects?

13 A. If necessary, yes.

14 Q. And sometimes videos of projects?

15 A. Yes.

16 Q. Tell us about that.

17 A. Well, when there is a project that is completed, I mean,
18 the project manager, either he will hang the pictures of the
19 project on the wall where all the staff can see it, or he will
20 distribute it in the staff meeting, you know, to look at the
21 project that has been completed.

22 Q. And were you familiar while you were there -- Well, hold
23 on one second. Were you familiar with projects that Abdul
24 Odeh actually took part in?

25 A. I am familiar with two projects, one in Turkey that is

1 for the earthquake, and one in Kosovo to deliver the bakeries
2 to the Kosovans at the time.

3 Q. And were you familiar with the pantry he had up in New
4 Jersey?

5 A. Yes, sir.

6 Q. Tell us about that.

7 A. It is like a committee outreach project within the city
8 of Paterson in New Jersey, you know, where he distributes food
9 to the needy of the city of Paterson, you know. That is a
10 local project within his area.

11 Q. Okay.

12 MR. WESTFALL: May I approach, Your Honor?

13 THE COURT: Yes.

14 Q. (BY MR. WESTFALL) Okay. I have given you a number of
15 exhibits, some photographs, and a DVD. Okay?

16 MR. WESTFALL: And these are marked, just for the
17 record, Defendants' No. 858, Defendants' No. 754, 755, and
18 767, and Defendants' No. 1418, 1419, 1420, 1421, and 1422.

19 Q. (BY MR. WESTFALL) Let's talk about Defendants' No. 754,
20 755, and 767 first. Do you see those right in front of you?
21 Do you recognize the person that is in those pictures?

22 A. Yes, sir.

23 Q. And is this a project that you actually, you know,
24 personally I guess lived through from your position at the
25 Holy Land Foundation?

1 A. This is the delivery of the bakeries in Kosovo, and this
2 is the flour that we supplied in order to bake the bread.

3 Q. Okay. And is that Abdul Odeh in fact in each one of
4 those pictures?

5 A. Yes, sir.

6 Q. And does the Holy Land logo appear in at least one of
7 them there?

8 A. Yes, sir.

9 MR. WESTFALL: Your Honor, I move for admission of
10 Defendants No. 754, 755, and 767.

11 MR. JONAS: Can I briefly voir dire the witness?

12 THE COURT: All right.

13 Q. (BY MR. JONAS) Sir, were you at the location when those
14 pictures were taken?

15 A. No, sir.

16 Q. Did you ever go to those locations at all?

17 A. No, sir.

18 Q. Did someone tell you where those pictures were taken? Do
19 you understand the question? If you weren't there either when
20 the picture was taken or at any time, how do you know what is
21 in those pictures?

22 A. Because I was familiar with the project itself.

23 Q. Okay. But how do you know what is in those pictures?

24 A. I don't know.

25 MR. JONAS: Your Honor, we object. Lack of

1 foundation.

2 THE COURT: Do you want to ask some more questions?

3 MR. WESTFALL: Sure.

4 Q. (BY MR. WESTFALL) Let's -- Tell us about the Kosovo
5 project.

6 A. Well, during the Kosovo crisis, the Holy Land Foundation
7 find out that, you know, we need to give them a hand, you
8 know, by providing them with the bread. And the Holy Land
9 Foundation and the management at the Holy Land decided that,
10 you know, the best way to do that is to send them a couple of
11 bakeries, you know, with the raw materials, which is the
12 flour, and to show them how to operate those projects for some
13 period of time, and then to hand it over to the Kosovans in
14 order to bake it themselves and distribute among the refugees
15 of Kosovo.

16 Q. What actually caused the crisis that you actually had to
17 go work with?

18 A. There was a war in Kosovo at that time.

19 MR. JONAS: Your Honor, I am going to object as to
20 relevance and personal knowledge.

21 THE COURT: Overrule the objection. He may testify.

22 THE WITNESS: There was a war in Kosovo at that time
23 between the Serbians and the Kosovans and the war, you know,
24 resulted over a lot of Kosovan refugees in that area. And as
25 a humanitarian, you know, foundation, we thought that, you

1 know, we need to give a helping hand to the Kosovans by
2 providing them with bread.

3 Q. (BY MR. WESTFALL) And did the Holy Land Foundation also
4 donate a couple of ambulances?

5 A. Yes, sir.

6 Q. Now, who went over to actually Kosovo or Albania and do
7 this work?

8 A. Dalall Mohammad and Abdulrahman Odeh.

9 Q. One picture there, does it appear that Odeh is standing
10 among a bunch of bags of flour?

11 A. Yes, sir.

12 Q. And then the other pictures, does it appear that Odeh is
13 at least standing among people who appear European?

14 A. Yes, sir.

15 Q. Let's set those aside for a moment. Okay? And I want to
16 shift gears and talk to you about the other pictures. Look at
17 those pictures right there, No. 1418 to 1422. I am going to
18 first show you, Mr. Yaish, Defendants' No. 1016, which is
19 already in evidence. Okay? You have never seen this before,
20 but I am going to put it here. It is page 12.

21 By the way, in Kosovo, did the Holy Land Foundation
22 actually work with the United Nations in that project?

23 A. Yes, sir.

24 Q. And have a contract with the United Nations?

25 A. Yes, sir.

1 Q. Can you see what this says right here?

2 A. "My trip to Egypt, inviting" --

3 Q. "Inviting guests from Egypt"?

4 A. "Guests from Egypt."

5 Q. And what is the date?

6 A. June 7, 1996.

7 Q. I will represent to you that these are some weekly

8 reports that Abdul Odeh had to send back to headquarters. Did

9 you know he had to send back reports?

10 A. Can you repeat your question?

11 Q. Did you know that Abdul Odeh had to send back reports

12 telling them of his weekly activities?

13 A. Yes, sir.

14 Q. Can you read what this says here?

15 A. "Leaving on 1/15/97 and traveling to Jordan on duty to

16 distribute food parcels to needy families."

17 Q. And what is the date of that?

18 A. 1/31/97.

19 Q. Can you read what this says here? This is at page 102.

20 A. "Call Mr. Basim about my trip to Jordan and work at

21 office."

22 Q. Who is Mr. Basim?

23 A. It is the same guy, the head of the Project Department.

24 He goes either by Basim or Bassam.

25 Q. Bassam Faris?

1 A. Uh-huh.

2 Q. And when is this?

3 A. 5/24/97.

4 Q. Now, have you actually seen a videotape of Abdul Odeh's
5 trip to Egypt?

6 A. Yes, sir.

7 Q. And was that for the purpose of distributing aid to a
8 refugee camp in Rafah?

9 A. Yes, sir.

10 Q. That videotape I have before you as well as the screen
11 shots, which for the record are No. 1418 to 1422, and then
12 Defendants' No. 858, have you -- Are you familiar with those?

13 A. Yes, sir.

14 Q. And each one of Defendants' No. 1418 to 1422, do they
15 contain in them the image of Abdulrahman Odeh?

16 A. Yes, sir.

17 Q. And do they appear to be in a refugee camp, from your
18 knowledge of refugee camps?

19 A. Yes, sir.

20 Q. Now, the video, Defendants' No. 858, having seen that,
21 does that also have the image of Abdulrahman Odeh?

22 A. Yes, sir.

23 Q. And does it have distinctive characteristics that would
24 tell you that that was the Holy Land Foundation taking a
25 mission to the U.N. refugee camp in Rafah?

1 A. Yes, sir.

2 Q. Would that include signs saying the date of May of '97 --
3 Or '96 rather?

4 A. May of '96, yes, sir.

5 Q. And the Holy Land Foundation?

6 A. Yes, sir.

7 Q. Would that also include signs at the refugee camp saying
8 "OIC Camp Canada"?

9 A. Yes, sir.

10 Q. And also include the image of Abdul Odeh handing out aid?

11 A. Yes, sir.

12 MR. WESTFALL: Your Honor, at this time I would move
13 for admission once again of Defendants' No. 754, 755, and 767
14 which he has already testified to, as well as Defendants'
15 No. 858, and 1418 through 1422.

16 MR. JONAS: May I voir dire?

17 THE COURT: Yes.

18 Q. (BY MR. JONAS) Sir, Mr. Westfall asked you about some of
19 these events taking place in May 1996. Is that correct?

20 A. Correct.

21 Q. When did you start working for the Holy Land Foundation?

22 A. April of 1997.

23 Q. So this took place before you even started working there?

24 A. Correct.

25 Q. Did you ever go to any of these refugee camps

1 Mr. Westfall asked you about?

2 A. No, sir.

3 Q. So you don't have personal knowledge that what is in
4 these pictures are accurate?

5 A. Well, the only knowledge I have is Mr. Abdulrahman Odeh
6 in the pictures and the logos of the Holy Land Foundation.

7 Q. And that is it?

8 A. That is it.

9 Q. The videotape -- There was a DVD in front of you that
10 Mr. Westfall referred to as Defendants' No. 858. Had you seen
11 that videotape other than Mr. Westfall showing it to you?

12 A. No, sir.

13 MR. JONAS: Your Honor, we object.

14 THE COURT: I will sustain as to No. 858 and then
15 No. 1418 through 422, and then I will overrule with respect to
16 754, 755, and 767. So those are admitted.

17 MR. WESTFALL: Thank you.

18 Q. (BY MR. WESTFALL) By the way, what color does the U.N.
19 use for all of its signs and such?

20 A. Blue.

21 MR. WESTFALL: May I approach?

22 THE COURT: Yes.

23 Q. (BY MR. WESTFALL) This is Defendants' No. 754. Now, was
24 this trip to Kosovo and buying the bakeries and buying the
25 ambulances and the such, was that expensive?

1 A. Yes, sir.

2 Q. This is No. 755. And this is No. 767.

3 MR. WESTFALL: And Your Honor, I will pass the
4 witness.

5 May I have one second to gather up?

6 THE COURT: Yes. Any other Defense counsel going
7 to --

8 MS. DUNCAN: Yes, Your Honor.

9 THE COURT: Ms. Duncan? All right.

10 Why don't we take the lunch break. We are about five or
11 ten minutes away from the lunch break. Be back -- that clock
12 is still behind. Be back at 1:45.

13 (Whereupon, the jury left the courtroom.)

14 THE COURT: Anything we need to address before we
15 recess?

16 MR. JONAS: Do you want Mr. Broxmeyer in at 1:30?

17 THE COURT: Yes, in chambers.

18 We will be in recess until 1:45.

19 (Lunch recess.)

20 THE COURT: Ms. Duncan?

21 MS. DUNCAN: Your Honor, may I approach?

22 THE COURT: Yes.

23 DIRECT EXAMINATION

24 By Ms. Duncan:

25 Q. Good afternoon, Mr. Yaish.

1 A. Good afternoon to you.

2 Q. You testified before that Shukri contacted you in 1997 to
3 offer you a job at the Holy Land Foundation. Is that right?

4 A. Right.

5 Q. Had you met Shukri before then?

6 A. Yes.

7 Q. Could you please tell us about the circumstances, when
8 that meeting was and the circumstances of it?

9 A. Well, the first time I met Shukri was in 1993, between
10 March and May of 1993. I cannot recall the exact dates. I
11 was visiting a child who was diagnosed with brain cancer at
12 Parkland Hospital, and, you know, Shukri was there visiting
13 the same child.

14 Q. Do you know what Shukri's relationship to that child was?

15 A. He is not related to the child, because the child, I
16 mean, his father was a friend of mine, and he was a taxi cab
17 driver at that time. And it happened that Shukri was taking a
18 taxi cab from the airport to his home and the father of that
19 dying child was the taxi cab driver.

20 Q. And so then was your next meaningful contact with Shukri
21 in 1997 when he called your house mistaking you for a woman?

22 A. Yes, ma'am.

23 Q. Okay. And I want to talk to you briefly about your role
24 at the Holy Land Foundation. I know you covered some of that
25 with Mr. Westfall, but I just want to hit on a couple of key

1 points.

2 Did you work with Shukri at the Holy Land Foundation?

3 A. Yes, ma'am.

4 Q. And what was his role during the time you were employed
5 there?

6 A. He was the president of the Holy Land Foundation at that
7 time.

8 Q. And given that he was the president, did he give you
9 instructions on how to manage the financials?

10 A. No, ma'am.

11 Q. Okay. Did he leave it up to you to manage them as you
12 thought best?

13 A. Yes, ma'am.

14 Q. And did you have complete control over the financials, or
15 did you share control with someone else?

16 A. I had complete control, but I shared the knowledge and
17 the experience with others.

18 Q. Okay. And did the Holy Land Foundation have an open book
19 policy?

20 A. Yes, ma'am.

21 Q. So if a funder wanted to come in and look at the records,
22 what would happen?

23 A. We would show them the records.

24 Q. We heard some testimony earlier in this case about a Form
25 990. Do you know what that is?

1 A. Yes, ma'am.

2 Q. Could you remind the jury, please?

3 A. Form 990 is the annual tax return for non-profit
4 organizations.

5 Q. And was the preparation of the Form 990 one of your
6 duties while you were employed at the Holy Land Foundation?

7 A. At that time I prepared two years of the Form 990.

8 Q. Okay. And how did you prepare them?

9 A. I prepared them from the financial reporting that would
10 be a result for the entire year.

11 Q. So from the records that you similar to the ones you went
12 through with Mr. Westfall?

13 A. Yes, ma'am.

14 Q. Okay. And did you keep up after you prepared the form
15 990, what did you do with it before filing?

16 A. I would discuss it with Shukri or Ghassan and have them
17 sign it.

18 Q. And did you keep back-up documentation for those forms?

19 A. Yes, ma'am.

20 Q. And do you know how long you were required to keep
21 back-up documentation?

22 A. Usually five years.

23 Q. Five years? Okay.

24 Now, in addition to filing those annual returns from the
25 IRS, did the Holy Land Foundation hire people to do

1 independent audits of its books?

2 A. Yes, ma'am.

3 Q. And how often did it do that?

4 A. Annually.

5 Q. Can you tell us what is an independent audit?

6 A. Well, an independent auditor is an outside CPA who is
7 licensed to conduct audits, and he would review the books and
8 records of the Foundation and he will -- based on his review
9 will, you know, issue a report.

10 Q. And what does that review entail?

11 A. Well, I mean, you know, the audits would conduct two
12 things. One is the auditor's report. You know, he will write
13 or conclude based on the findings what does he find during his
14 audit, and the other part is the financials reporting.

15 Q. And so when the auditor would perform that audit, would
16 he look just at your reports or would they also look at the
17 underlying documentation?

18 A. Well, we would provide him with any documentation he
19 would be requesting.

20 Q. And was the audit performed independently of you, or did
21 you have a role in it?

22 A. No, it is completely independent.

23 Q. And I think you said that those audits were done every
24 year?

25 A. Yes, ma'am.

1 Q. And were they made available to the public?

2 A. Yes, ma'am.

3 Q. And how were they made available?

4 A. Well, usually we publish them in the annual reports that
5 would be distributed, and anybody who requests the annual
6 report we would give them a copy of the annual report.

7 Q. Okay. Since we are talking about annual reports we will
8 continue there. What other information was contained in those
9 annual reports?

10 A. Well, the annual reports usually contains two parts. One
11 part is the operation of the Holy Land Foundation for the
12 entire year, including the projects and the amounts being
13 collected and the projects that had been completed, and the
14 other part is the financial part which shows, you know, the
15 auditor's independent report included in it.

16 Q. And how are those reports prepared?

17 A. Usually it is a collective effort from each department.
18 They will, you know, submit the documentations, you know,
19 about, you know, their department and the projects that have
20 been completed and will be collected I believe under one
21 person. That is who will gather all of this information and
22 prepare the annual reports.

23 Q. Okay. So were the entries in the reports made by people
24 with knowledge of activities of the things being reported?

25 A. Yes, ma'am.

1 Q. Were the reports written at or near the time of those
2 activities?

3 A. Yes, ma'am.

4 Q. And were the reports written as a regular part of the
5 Holy Land business?

6 A. Yes, ma'am.

7 Q. And were they maintained in the Holy Land Foundation
8 records in the regular course of that business?

9 A. Yes, ma'am.

10 Q. I would like you to turn to tab C of your notebook,
11 please. It should be the third tab.

12 A. A picture?

13 MS. DUNCAN: May I approach, Your Honor?

14 THE COURT: Yes.

15 Q. (BY MS. DUNCAN) Now, you should see two documents under
16 that tab marked Defendants' Exhibit No. 67 and Defendants'
17 Exhibit No. 865. Do you see those?

18 A. Yes, ma'am.

19 Q. Do you recognize them?

20 A. Yes, ma'am.

21 Q. Let's start with Defendants' Exhibit No. 67. Can you
22 tell us what that is?

23 A. This is year 2000 annual report.

24 Q. And then looking at Defendants' Exhibit No. 865, can you
25 tell us what that is?

1 A. 1997 annual report.

2 Q. And do both of those reports fall within the description
3 you earlier gave of being reports that were created and kept
4 in the regular course of business of the Holy Land Foundation?

5 A. Yes, ma'am.

6 MS. DUNCAN: Your Honor, we move the admission of
7 Defendants' Exhibit No. 67 and 865.

8 THE COURT: Mr. Jonas?

9 MR. JONAS: No objection, Your Honor.

10 THE COURT: Admitted.

11 Q. (BY MS. DUNCAN) Okay. I would like to look at
12 Defendants' Exhibit No. 865 first. First can you tell me,
13 what was the purpose of these annual reports?

14 A. Just to give the donor what is -- you know, the
15 accomplishments we made during the year.

16 Q. Okay.

17 MS. DUNCAN: Can you pull up No. 865, please?

18 Q. (BY MS. DUNCAN) And can you read that title there for
19 me, please, Mr. Yaish?

20 A. "1997 annual report."

21 Q. I would like to just quickly go through the report and
22 show the jury some of the parts that you mentioned. Can we
23 turn to page two? And what does that appear to be?

24 A. This is the table of contents.

25 Q. And turning to the next page, please, could you read the

1 mission statement for us, please, Mr. Yaish?

2 A. "HLF mission statement. Our mission knows no color,
3 nationality, or racial category. We are dedicated to helping
4 our fellow humans with comprehensive humanitarian aid through
5 various programs directed towards the poor and the
6 underprivileged. We are especially focused on the problems of
7 the Palestinian refugees in the Holy Land. We believe that
8 all people are created equal, and possess certain inalienable
9 rights, which include the right to adequate shelter, food,
10 healthcare, and education. The Holy Land Foundation is
11 dedicated to finding practical solutions for human suffering
12 through humanitarian programs in the areas of emergency
13 relief, healthcare, social services, education, and community
14 development."

15 Q. And if we can go to page five of the report. I may have
16 the page written down wrong.

17 MS. DUNCAN: The next page, please.

18 Q. (BY MS. DUNCAN) And so is this the beginning of the
19 description of services that you mentioned before?

20 A. Yes, ma'am.

21 Q. And so here we see Social Services. What sort of
22 programs were included under Social Services?

23 A. Include the orphans, the needy families, needy children.

24 MS. DUNCAN: And if we can move to the next page,
25 please. And the next page. And one more.

1 Q. (BY MS. DUNCAN) And here we see healthcare. What sort
2 of problems were included in healthcare?

3 A. Providing medical assistance and medical supplies or
4 medical equipment to the needy.

5 MS. DUNCAN: And if we could keep paging through it,
6 please.

7 Q. (BY MS. DUNCAN) And education. What would be included
8 under education?

9 A. Providing education to the needy children.

10 Q. And I think you talked earlier about emergency relief?

11 A. Yes, ma'am.

12 Q. And community development. What kind of projects would
13 fall under community development?

14 A. Small projects just to make the needy families sustain
15 their livings.

16 Q. So sort of small business development projects?

17 A. Small business development, yes.

18 Q. And I think we heard about special services earlier.

19 A. Yes, ma'am.

20 Q. I would like to talk to you a little bit about the
21 community outreach USA. What sort of programs did the Holy
22 Land Foundation do in the United States while you were working
23 there?

24 A. I was familiar with two projects actually, the one of
25 them, you know, I personally was volunteered in cleaning up

1 the mess after the tornado hit Oklahoma City.

2 Q. And what year was that?

3 A. That was I believe -- I am not sure. 1998 or 1999.

4 Q. Did the Holy Land Foundation ever host any community
5 events at its offices?

6 A. Yes, ma'am.

7 Q. A what kind of events were those?

8 A. Those like monthly events to outreach the community and
9 bring some guest speakers to educate the community and, you
10 know, especially among the Muslims and Arab community in the
11 local Dallas/Fort Worth area.

12 Q. What kind of speakers did you invite?

13 A. At one point we invited the FBI, we invited Immigration,
14 and some civil rights lawyers.

15 Q. And how often were these meetings held?

16 A. Usually monthly.

17 Q. Okay. And what was the purpose of these community
18 meetings?

19 A. Just to educate the Arab and the Muslim community and to
20 close the gap between Muslims and non-Muslims.

21 Q. Now, as part of the Holy Land Foundation's community
22 outreach, did it ever do any public service announcements or
23 other types of outreach?

24 A. Yes, ma'am.

25 Q. And can you tell us about those, please?

1 A. Well, during the month of Ramadan, I mean, we will air
2 some public announcements on local channels, especially
3 Channel 8, just to educate the locals about Ramadan and about
4 the Muslims.

5 Q. Okay. And did the Holy Land have local volunteers that
6 worked with the Foundation?

7 A. Yes, ma'am.

8 Q. And what did those volunteers do?

9 A. Usually, I mean, they go and do some, you know, speeches
10 on the national level in order to collect some funds for the
11 Holy Land Foundation.

12 Q. Continuing through the exhibit, we see here the donor's
13 bill of rights. What is that? Are you familiar with it?

14 A. Yes, ma'am.

15 Q. Can you tell us, what is that?

16 A. The Holy Land Foundation for Relief and Development
17 understands that its donors are actually partners in its
18 philanthropic mission. Every donor has certain inalienable
19 rights at Holy Land Foundation. We believe that the donor
20 should be involved in the process and informed to the
21 progress. Donors are vastly appreciated, and truly the
22 foundation from which the Foundation was built. HLF in fact
23 has created the following Bill of Rights for each and every
24 donor to acquire HLF financial statements, annual reports, an
25 newsletters.

1 Q. I think that is what you had talked about earlier that
2 you would make the audited financial statements available to
3 the donors.

4 A. Yes, ma'am. To earmark donations to specific HLF
5 programs or activities.

6 Q. Did donors occasionally do that--give you money for
7 specific projects?

8 A. Yes, ma'am.

9 Q. Okay.

10 A. To receive a written acknowledgment for every donation
11 made to the Foundation. If involved in any HLF sponsorship
12 program, the donor is entitled to receive periodic progress
13 reports. If a donor is giving a monthly donation, he or she
14 can choose a payment plan and may cancel their pledge at any
15 time. The donor has the right to remain anonymous.

16 Q. Let me stop you there. Is there any provision in Islam
17 that would explain inclusion here of the right to remain
18 anonymous in making a donation?

19 A. Yes, ma'am.

20 Q. Can you explain what that is?

21 A. Well, some donors, I mean, they just don't want the
22 reward from the people just to pinpoint them to say they are a
23 generous donor. They just only want the reward from God. He
24 is the only one who knows about their donation.

25 Q. Thank you. And then the final one, "Personal complaints,

1 suggestions, and feedback are appreciated and addressed."

2 MS. DUNCAN: Can you go to the next page? Keep
3 going.

4 Q. (BY MS. DUNCAN) And I see here this is the statement of
5 financial position.

6 A. Yes, ma'am.

7 Q. And 2001 one I believe is unaudited?

8 A. Correct.

9 Q. So you had both audited and unaudited financial
10 statements?

11 A. Yes, ma'am.

12 Q. I would like to talk a little bit about the atmosphere of
13 the Holy Land Foundation to work there. And what was it like
14 to work there?

15 A. It was a pleasant atmosphere.

16 Q. Was it an open office?

17 A. Yes, ma'am.

18 Q. Did people lock their doors?

19 A. No, ma'am.

20 Q. Did people share information with each other?

21 A. Yes, ma'am.

22 Q. I think you talked about staff meetings. And how often
23 did you hold those?

24 A. I am not sure, but at least monthly.

25 Q. Monthly meetings. Okay. If you can turn to tab B in

1 your notebook, please.

2 A. D?

3 Q. B as in boy. And you should have there what has been
4 marked as Defendants' Exhibit No. 247.

5 A. Yes, ma'am.

6 Q. Do you recognize it?

7 A. Yes, ma'am.

8 Q. And is it a fair and accurate portrayal of what is
9 pictured there?

10 A. Yes, ma'am.

11 Q. And do you have personal familiarity with what is shown
12 in that photograph?

13 A. This is the conference room at the Holy Land Foundation.

14 MS. DUNCAN: Your Honor, we move the admission of
15 Defendants' Exhibit No. 247.

16 THE COURT: Mr. Jonas?

17 MR. JONAS: Can the witness repeat what he described
18 in the picture?

19 THE WITNESS: Conference room.

20 MR. JONAS: No objection.

21 THE COURT: Admitted.

22 Q. (BY MS. DUNCAN) You said this is the actual conference
23 room at the Holy Land Foundation?

24 A. Yes, ma'am.

25 Q. And is this where you would hold your staff meetings?

1 A. Yes, ma'am.

2 Q. Do you recognize any of the people in this photograph?

3 A. Yes, ma'am.

4 Q. Can you tell us who they are and sort of describe them so

5 we can see them as well?

6 A. I can recognize Natalie Suleiman.

7 Q. Where is she sitting?

8 A. At the far left.

9 Q. And who is she?

10 A. She is an employee at the Holy Land Foundation at that

11 time, and she was in charge I believe in the in kind

12 donations.

13 Q. Do you recognize anyone else?

14 A. No, ma'am.

15 Q. Okay. And when you are looking at this, does this appear

16 to be a staff meeting or a community meeting?

17 A. It appears to be a community meeting.

18 Q. Thank you.

19 Now, when you were working at the Holy Land Foundation,

20 were all of the employees Arab or Muslim?

21 A. No, ma'am.

22 Q. Was there any kind of a dress code for appearing at work?

23 A. No, ma'am.

24 Q. For example, were women required to cover their heads or

25 wear long sleeves?

1 A. No, ma'am.

2 Q. Were men required to wear beards?

3 A. No, ma'am.

4 Q. Was everyone who worked there in fact a Muslim?

5 A. No, ma'am.

6 Q. Can you think of any people who you worked with who were
7 not?

8 A. My assistant. She was a Christian.

9 Q. And your assistant's name was?

10 A. Rhonda.

11 Q. Thank you. And I wanted to talk to you also, you talked
12 with Mr. Westfall about Mr. Abdul Odeh's work overseas. Who
13 are other field workers that worked for the Holy Land
14 Foundation?

15 A. Overseas?

16 Q. Yes. The people who traveled from the Dallas office
17 overseas to do work.

18 A. Dalall Mohammed, Ibrahim al-Samnah, and we have Haitham
19 Maghawri.

20 Q. If you can turn to tab A in your notebook, please. You
21 should have Defendants' Exhibit No. 490 and 662. Do you
22 recognize the person depicted in those photographs?

23 A. Yes, ma'am.

24 MS. DUNCAN: And I believe No. 490 is already in
25 evidence, Your Honor.

1 Q. (BY MS. DUNCAN) Let's look first at Defendants' Exhibit
2 No. 662. In addition to recognizing the person who is
3 pictured there, do you see any other distinctive
4 characteristics?

5 A. Yes, ma'am.

6 Q. And those distinctive characteristics taken in total with
7 the circumstances portrayed in that picture, does that help
8 you to recognize what is portrayed there?

9 A. Yes, ma'am.

10 Q. And does it appear to be an accurate depiction of what is
11 portrayed?

12 A. Yes, ma'am.

13 Q. And is this a photograph that was kept in the Holy Land
14 Foundation offices in the normal course of business?

15 A. Yes, ma'am.

16 MS. DUNCAN: Your Honor, we move the admission of
17 Defendants' Exhibit No. 662.

18 MR. JONAS: May I see a copy?

19 May I voir dire the witness?

20 THE COURT: Yes, sir.

21 Q. (BY MR. JONAS) Sir, do you know where this picture was
22 taken?

23 A. The first one in Kosovo and the second one in Gaza.

24 Q. No. 662, have you ever been to that location in Gaza?

25 A. No, sir.

1 Q. Did someone tell you where it was taken?

2 A. Well, I mean, they brought the pictures after the
3 completion and delivery of the wheelchairs.

4 Q. Have you ever been to that location?

5 A. No, sir.

6 Q. Do you recognize -- You said you recognized someone in
7 the picture?

8 A. Yes, sir.

9 Q. How many people do you recognize?

10 A. I recognize Dale Mohammed.

11 Q. Anyone else?

12 A. No, sir.

13 MR. JONAS: We object. Lack of foundation.

14 THE COURT: Is it just one exhibit, DX Exhibit
15 No. 662?

16 MS. DUNCAN: Yes, Your Honor.

17 THE COURT: But it is two pictures?

18 MS. DUNCAN: No, Your Honor. The first picture is
19 No. 490, which is already in evidence, and then No. 662 is
20 not.

21 THE COURT: Okay. No. 662 is admitted.

22 MS. DUNCAN: Thank you.

23 Q. (BY MS. DUNCAN) I think we already talked a little bit
24 about this picture without being able to see it, but where is
25 this picture taken?

1 A. In Gaza.

2 Q. And what was Dale doing in Gaza at that time?

3 A. She was delivering wheelchairs to needy crippled
4 children.

5 Q. Do you know if she was doing any other work in Gaza at
6 the same time she was delivering aid to other places?

7 A. No, ma'am.

8 MS. DUNCAN: And if we could look at picture
9 No. 490.

10 Q. (BY MS. DUNCAN) I think you said this was Dale here?

11 A. Yes, ma'am.

12 Q. And where is she in the photograph?

13 A. She is the one in the far right.

14 Q. And where was this photograph taken?

15 A. In Kosovo.

16 Q. Thank you.

17 Now, in the Holy Land Foundation office, what was on the
18 walls? If we walked into the office, what would we see?

19 A. Pictures of the projects that has been completed.

20 Q. And were they the same pictures or did those pictures
21 change?

22 A. They do change from time to time.

23 Q. And when you had the staff meetings with Dale and other
24 people that worked at the Holy Land Foundation that was there
25 during the meetings, you saw photographs of the work that they

1 did?

2 A. Yes, ma'am.

3 Q. And you also saw some videos of the work that they did?

4 A. Yes, ma'am.

5 Q. Okay. I would like to talk a little bit more about the
6 work Holy Land Foundation did overseas. Where did Holy Land
7 deliver charity outside of the U.S.?

8 A. It gave to Palestinian refugee camps in Jordan,
9 Palestinian refugee camps in Lebanon, Palestinian refugee
10 camps in Gaza and in the West Bank, gave to Turkey, gave to
11 Kosovo, and Mozambique.

12 Q. Mozambique in Africa?

13 A. Yes, ma'am.

14 Q. And we talked generally about the kinds of work that the
15 Holy Land Foundation did, and I would like to talk a little
16 bit more specifically. But before I do that I would like to
17 talk to you about the process I think you have talked about of
18 the orphan applications. I would like to talk about sort of
19 the more special projects.

20 Did the Holy Land Foundation receive proposals to do
21 work?

22 A. Yes, ma'am.

23 Q. And so how would a project start?

24 A. Well, the project starts, you know, overseas when they
25 need, you know, some projects to be done or financed. So they

1 will send proposal, you know, to the Holy Land Foundation.

2 Q. And when you say they, do you mean the charities on the
3 ground?

4 A. It could be the local charities, or could be our local
5 offices overseas where they see a need for certain projects,
6 you know, through some, I would say, researches they conduct
7 with some local businesses over there, you know, about the
8 importance of certain projects that need to be done on the
9 ground. So they will send us either, you know, a proposal for
10 the cost of the project and the type of project that is needed
11 to be performed.

12 Q. And when the Holy Land Foundation ultimately funded a
13 project, did it require the group with which it was working to
14 send any documentation back?

15 A. Yes, ma'am.

16 Q. And what kind of documentation did the Holy Land
17 Foundation require?

18 A. Pictures or videos.

19 Q. Did they also require written reports?

20 A. Yes, ma'am.

21 Q. And so would the -- They would require all of those
22 things; a written report which would include pictures and
23 videos?

24 A. Correct.

25 Q. And were those reports and pictures, were they generally

1 made by the people who were implementing the projects on the
2 ground?

3 A. Yes, ma'am.

4 Q. And were they done at the direction of the Holy Land
5 Foundation?

6 A. Yes, ma'am.

7 Q. And was it a regular practice of those groups to make
8 those photographs and those reports and those videos?

9 A. Yes, ma'am.

10 Q. And that was done in the normal course of their business
11 with the Holy Land Foundation?

12 A. Yes, ma'am.

13 Q. And then did the Holy Land Foundation keep those reports,
14 including photographs, in their files during the normal course
15 of their business?

16 A. Yes, ma'am.

17 Q. Okay. I would like to start with the educational
18 programs. We have talked about them a little bit. Did Holy
19 Land sponsor any back-to-school programs?

20 A. Yes, ma'am.

21 Q. And can you tell us a little bit about those?

22 A. Back-to-school program is a seasonal program. When needy
23 students go back to school, we provide them with a backpack
24 and school supplies.

25 Q. And how often did the Holy Land Foundation sponsor

1 backpack projects?

2 A. Every year.

3 Q. And what kind of -- When you say supplies, what do you
4 mean?

5 A. Pencils, sharpeners, notebooks, you know, education
6 materials.

7 Q. So the basics for an education?

8 A. Yes.

9 Q. Okay. Could you please turn to tab E in your notebook?
10 And you should have Defendants' Exhibit No. 214, 215, 732, and
11 734. Would you look through those, please, and let me know if
12 you recognize them.

13 A. Yes, ma'am.

14 Q. Do you recognize the logo that appears in those four
15 photographs?

16 A. Yes, ma'am.

17 Q. And are there other distinctive characteristics in these
18 photographs to help you identify where they were taken?

19 A. Yes, ma'am.

20 Q. And when you looked at those distinctive characteristics
21 and take it in conjunction with the circumstances, do these
22 photographs represent the kind of backpack projects that Holy
23 Land did?

24 A. Yes, ma'am.

25 Q. And were these photographs taken as part of the normal or

1 regular part of the business of Holy Land Foundation and its
2 donors?

3 A. Yes, ma'am.

4 Q. And were they kept in the Holy Land files as a normal
5 part of the Holy Land's business of charity?

6 A. Yes, ma'am.

7 Q. And were they -- This may be an obvious question, but I
8 am going to ask it anyway because it is a predicate. Were
9 they made at or near the time of the activity depicted
10 therein?

11 A. Yes, ma'am.

12 MS. DUNCAN: Your Honor, I move the admission of
13 Defendants' Exhibit No. 214, 215, 732, and 734.

14 THE COURT: Mr. Jonas?

15 MR. JONAS: May I voir dire?

16 THE COURT: Yes, sir.

17 Q. (BY MR. JONAS) Sir, do you know what year those pictures
18 were taken?

19 A. No, sir.

20 Q. Do you know what projects they are part of, specific
21 projects?

22 A. Can you repeat your question?

23 Q. Do you know which specific projects those pictures are
24 part of?

25 A. Backpack.

1 Q. You are saying backpack?

2 A. Education.

3 Q. Were there specific projects, like a project number or
4 location or time frame?

5 A. No, sir.

6 Q. You don't know any of that from looking at the picture?

7 A. The only one I see, that is 1996.

8 Q. And that is before you started working at the Holy Land
9 Foundation?

10 A. Yes, sir.

11 Q. Do you recognize anybody in any of these pictures?

12 A. No, sir.

13 Q. Do you recognize the locations for any of these pictures?

14 A. Just what is written on the banner.

15 Q. Have you been to these locations?

16 A. No, sir.

17 MR. JONAS: I object; no foundation.

18 THE COURT: Sustained.

19 MS. DUNCAN: May I voir dire and ask a few
20 questions?

21 THE COURT: Sure.

22 Q. (BY MS. DUNCAN) If you could look at Defense Exhibit No.
23 214, please.

24 A. Yes, ma'am.

25 Q. And do you recognize the Holy Land Foundation logo in

1 that picture?

2 A. Yes, ma'am.

3 Q. If you would turn to Defense Exhibit No. 215?

4 A. Yes, ma'am.

5 Q. In addition to the Holy Land Foundation logo, is there a
6 sign there that identifies where the picture was taken?

7 A. Yes, ma'am.

8 Q. And a date? Do you see a date on that sign?

9 A. Yes, ma'am.

10 THE COURT: Which one was that?

11 MS. DUNCAN: That was No. 215, Your Honor.

12 Q. (BY MS. DUNCAN) And if you compare No. 215 and No. 214,
13 do they look to be taken at the same place?

14 A. Yes, ma'am.

15 Q. And then with Defense Exhibit No. 732, do you recognize
16 the Holy Land Foundation logo?

17 A. Yes, ma'am.

18 Q. And does the picture show backpacks?

19 A. Yes, ma'am.

20 Q. And finally with Defense Exhibit No. 734, if you could
21 look at the sign, and do you recognize again the logo?

22 A. Yes, ma'am.

23 Q. And do you recognize the names of the organizations
24 involved in this particular project?

25 A. Yes, ma'am.

1 Q. And is there a date on that sign?

2 A. Yes.

3 Q. And do these photographs fairly represent the backpack
4 projects that the Holy Land Foundation sponsored over the
5 years?

6 A. Yes, ma'am.

7 MS. DUNCAN: Your Honor, we renew our admission of
8 these photographs.

9 MR. JONAS: Same objection.

10 THE COURT: I think she laid enough. No. 214, 215,
11 732, and 734 are admitted.

12 MS. DUNCAN: Thank you, Your Honor.

13 Q. (BY MS. DUNCAN) If we can start with No. 214. And if
14 you could just tell us what is shown in this photograph, Mr.
15 Yaish.

16 A. It shows some backpacks and some school supplies such as
17 notebooks.

18 Q. And going to the next picture, please, this is showing
19 some more supplies that were going into the backpacks?

20 A. Yes, ma'am.

21 MS. DUNCAN: If we can have the next picture,
22 please.

23 THE WITNESS: This shows students receiving the
24 backpack.

25 MS. DUNCAN: And the next picture?

1 THE WITNESS: Same thing here, some girls receiving
2 their backpack.

3 Q. (BY MS. DUNCAN) Mr. Yaish, are these the only
4 photographs that the Holy Land Foundation kept of these kinds
5 of projects?

6 A. No, ma'am.

7 Q. And are these the only projects that the Holy Land
8 Foundation did with respect to backpacks for children?

9 A. No, ma'am.

10 Q. I would like now to turn to the food packages that you
11 talked about with Mr. Westfall. Could you tell us about those
12 programs?

13 A. This program is conducted during the holy month of
14 Ramadan where there were some needy families that they don't
15 have, you know, money to sustain their living during the month
16 of Ramadan, so what we do, I mean, we buy food and distribute
17 it among the poor and needy in the Palestinian refugee camps,
18 whether it is in Lebanon, Jordan, or Gaza and West Bank.

19 Q. Do you know what kind of foods were put into those
20 packages?

21 A. Rice, sugar, and some oil, lentil or dry foods, you know.

22 Q. And did the Holy Land Foundation put together or sponsor
23 food packages at any time other than Ramadan?

24 A. I don't remember.

25 Q. Okay. If you could turn to tab F in your notebook,

1 please. You should have in there Defense Exhibits 377, 479,
2 503, 539, 553, 558, 705, 706, 709, and 711. Would you please
3 look through those exhibits and tell us whether you recognize
4 them.

5 A. Yes, ma'am.

6 Q. Let's go through them a little more slowly. If you will
7 look at Defense Exhibit No. 377, do you recognize the logo in
8 that photograph?

9 A. Yes, ma'am.

10 Q. And when you look at the other distinctive
11 characteristics in this photo, does it appear --

12 A. The logo on the T-shirts those guys are wearing.

13 Q. And also what they are doing in the photograph?

14 A. Yes, ma'am.

15 Q. Does that look familiar to you? And I ask you the same
16 question about No. 479.

17 A. Yes, ma'am.

18 Q. So you recognize both the logos and then some of the
19 distinctive characteristics about this photograph?

20 A. Yes, ma'am.

21 Q. If you turn to No. 503, and I realize this might be a
22 little harder, can you read what is --

23 A. No, ma'am. It is kind of hard to read.

24 MS. DUNCAN: Your Honor, I am going to withdraw
25 No. 503.

1 Q. (BY MS. DUNCAN) And on Exhibit No. 539, do you recognize
2 that logo?

3 A. Yes, ma'am.

4 MS. DUNCAN: Your Honor, I didn't go through the
5 rest of the predicate.

6 Q. (BY MS. DUNCAN) If you would look at Defense Exhibit
7 No. 706.

8 A. Yes, ma'am.

9 Q. In addition to the logo that you see, do you recognize
10 anyone pictured here?

11 A. Yes, ma'am.

12 Q. And do these photographs as a whole sort of fairly and
13 accurately represent the kinds of food projects that the Holy
14 Land Foundation did?

15 A. Yes, ma'am.

16 Q. And were these photographs taken as a part of the
17 regularly conducted business of the Holy Land Foundation?

18 A. Yes, ma'am.

19 Q. Were they kept in the files of the Holy Land Foundation
20 as a regular part of the Foundation's business?

21 A. Yes, ma'am.

22 Q. And do they appear to you to have been made at or near
23 the time of the events depicted therein?

24 A. Yes, ma'am.

25 MS. DUNCAN: Your Honor, we move the admission of

1 377, 479, 539, 553, 558, 705, 706, 709 and 711.

2 THE COURT: Mr. Jonas?

3 MR. JONAS: May I voir dire?

4 THE COURT: Yes.

5 Q. (BY MR. JONAS) Sir, when were these pictures taken?

6 A. No idea.

7 Q. Do you know where they were taken?

8 A. Yes.

9 Q. Have you been to those locations?

10 A. No, sir.

11 Q. And how do you know that those pictures represent what
12 those locations are supposed to be?

13 A. I recognize Mr. Abu Muharam. He is an employee of the
14 Holy Land Foundation in the Gaza office.

15 Q. Besides him, how do you recognize the setting he is in?

16 A. The only thing I can see, I mean, the camps or the tents.

17 Q. Have you been to those camps?

18 A. No, sir.

19 Q. You don't know if those are accurate pictures, do you?

20 A. No, sir.

21 Q. Okay. Ms. Duncan asked you if you recognize distinctive
22 characteristics of the photos, but if you have never been
23 there how can you recognize the distinctive characteristics?

24 A. The logos and the food package which have some logos on
25 it.

1 Q. Just the HLF logos, wherever they are, is the only thing
2 you recognize and are familiar with?

3 A. Yes, sir.

4 Q. You don't know when they were taken?

5 A. No, sir.

6 Q. Do you know who took them?

7 A. Usually, I mean, a photographer at the sites during the
8 distribution.

9 Q. Obviously it is going to be a photographer, but, I mean,
10 is it an HLF employee who took them?

11 A. No, sir.

12 Q. Do you know if these pictures were taken before or after
13 you started working at the HLF?

14 A. No, sir.

15 MR. JONAS: Your Honor, we object. No foundation.

16 THE COURT: Ms. Duncan? Do you want to ask some
17 more questions?

18 MS. DUNCAN: Sure.

19 Q. (BY MS. DUNCAN) Photographs No. 377 -- The first three
20 photographs which are No. 377, 479, and 539, in addition to
21 the Holy Land Foundation logo that you see here, do you also
22 see food?

23 A. The banner?

24 Q. No, the actual items that are pictured here.

25 A. Some food items.

1 Q. And in your opinion, are food items sort of a distinctive
2 characteristic of food packages?

3 A. Yes, ma'am.

4 Q. And on photograph No. 539, the logo, does that appear to
5 be on a bag of food?

6 A. Yes, ma'am.

7 Q. And in No. 539 --

8 THE COURT: With respect to those three that you
9 were looking at, No. 377, 479, and 539, do you know where they
10 were taken, those three?

11 THE WITNESS: No, sir.

12 THE COURT: And then you don't know when they were
13 taken?

14 THE WITNESS: No, sir.

15 THE COURT: And you don't recognize anybody in them,
16 or do you?

17 THE WITNESS: No, sir.

18 THE COURT: Okay. Go ahead with the next ones.

19 Q. (BY MS. DUNCAN) No. 553 and 558, do you see a date in
20 the banner announcing the project?

21 A. 1999.

22 Q. That is No. 553 you were identifying?

23 A. Yes, ma'am.

24 Q. And what about for No. 558?

25 A. 2000.

1 Q. And does the sign identify the project?

2 A. Yes, ma'am.

3 Q. And then finally with photographs, we will start with
4 photograph No. 706, 709, and 711. In addition to the logos
5 that you identified, do you recognize a person who is pictured
6 in these photographs?

7 A. Yes, ma'am.

8 Q. And who is that person?

9 A. This is Abu Muharam, Holy Land Foundation employee in
10 Gaza.

11 MS. DUNCAN: Your Honor, we renew our request to
12 admit these photographs. Do you want me to name them?

13 THE COURT: Yes. I will sustain No. 377, 479, and
14 539. And then do you want to name the other ones?

15 MS. DUNCAN: Sure. No. 553, 558, 706, 709, and 711.

16 THE COURT: You initially had 705.

17 MS. DUNCAN: I pulled that one out because it
18 appears to me to be a part of the same event as No. 706, 709,
19 and 711, but it does not include -- I don't see a picture of
20 Abu Muharam in that photograph.

21 THE COURT: So you are withdrawing that one?

22 MS. DUNCAN: I don't want to withdraw but, I wanted
23 to note for the Court it is different than the other three.

24 THE COURT: All right. And Mr. Jonas, with respect
25 to these that remain, any objection?

1 MR. JONAS: Same objections, Your Honor. And if I
2 may ask the witness one question?

3 THE COURT: Yes.

4 Q. (BY MR. JONAS) The questions I asked you a few moments
5 ago about the pictures, did that include these pictures as
6 well that Ms. Duncan just asked you about?

7 A. Yes, sir.

8 Q. I don't want to waste time so I am not going to ask you
9 the same questions again. I want to make sure your answers
10 would be the same in terms of the questions I asked you
11 before.

12 A. Yes, sir.

13 THE COURT: And I will overrule the objections.
14 With respect to No. 553, 558, 706, 709, 711, those are
15 admitted.

16 MS. DUNCAN: Thank you. May we publish them, Your
17 Honor?

18 THE COURT: Yes.

19 Q. (BY MS. DUNCAN) If we can start with No. 553, does that
20 appear to show people handing boxes of food?

21 A. Yes, ma'am.

22 MS. DUNCAN: And if we could also publish No. 558
23 and then 706.

24 Q. (BY MS. DUNCAN) And Mr. Yaish, I think before we could
25 see this picture you had identified one of the gentlemen in

1 this photograph.

2 A. Yes, ma'am.

3 Q. Could you point out or tell us -- sort of describe in
4 this photograph where you see him.

5 A. The one with the suit.

6 MS. DUNCAN: And No. 709, please.

7 Q. (BY MS. DUNCAN) Is that also Mr. Abu Muharam shaking the
8 gentleman's hand?

9 A. Yes, ma'am.

10 Q. And No. 711, does that appear to be at the same place as
11 the previous photograph No. 709?

12 A. Yes, ma'am.

13 Q. As I asked before, did these photographs show all of the
14 food projects that were funded by the Holy Land Foundation?

15 A. This is just an example.

16 Q. And it wasn't depicted here, but do you know when the
17 Holy Land Foundation did projects overseas, was it common for
18 them to have banners announcing --

19 A. Yes, ma'am.

20 Q. And what typically would be put on those banners?

21 A. Well, usually put the name of the Holy Land Foundation,
22 and the name of the project, and financed by whom, you know.

23 Q. So did the banners identify, for example, the country
24 from which the aid was coming?

25 A. Yes, ma'am.

1 Q. And what would they say?

2 A. It would say it is like "gift presented by the Arab and
3 Islamic societies in U.S.A."

4 Q. I would like to turn our attention now to summer camps.
5 Did the Holy Land Foundation sponsor summer programs for
6 children?

7 A. Yes, ma'am.

8 Q. And could you tell us a little about them?

9 A. Well, I remember, you know, we do summer camps for the
10 orphans at the refugee camps in Lebanon during the summer the
11 orphans take them into picnic, you know, or sightseeing in
12 parts of Lebanon, and at the same time you know, involved in
13 social activities during the summertime, swimming, or, you
14 know, playing, some type of things like that.

15 Q. Did it include educational activities or was it mostly
16 just fun stuff?

17 A. It was summer camps, mostly fun stuff.

18 Q. Okay. I would like you to turn to tab G in your
19 notebook, please. You should have here Defense Exhibits 1112,
20 1113, 1116, 1118, 1120, 1121, 1124, 1126, 1131, 1132, and
21 1138. Do you see those there?

22 A. Yes, ma'am.

23 Q. Do you see the Holy Land logo in each of these
24 photographs?

25 A. Yes, ma'am.

1 Q. And do they appear to be from the same summer camp
2 program? Can you tell?

3 A. Yes, ma'am.

4 Q. And if you would turn to Defendants' Exhibit No. 1116.

5 A. Yes, ma'am.

6 Q. In addition to the Holy Land logo, do you see writing
7 that identifies this program?

8 A. Yes, ma'am.

9 Q. And do these photographs fairly and accurately represent
10 some of the summer programs that were funded by the Holy Land
11 Foundation?

12 A. Yes, ma'am.

13 Q. And were these photographs taken at the request of the
14 Holy Land Foundation as part of their regularly conducted
15 business?

16 A. Yes, ma'am.

17 Q. And were the photos kept in the files of the Holy Land
18 Foundation as part of its regularly conducted business?

19 A. Yes, ma'am.

20 Q. Does it appear to you that they were taken at the time of
21 the events depicted herein?

22 A. Yes, ma'am.

23 MS. DUNCAN: Your Honor, I move the admission of
24 Defense Exhibit No. 1112, 1113, 1116, 1118, 1120, 1121, 1124,
25 1126, 1131, 1132, and 1138.

1 THE COURT: Mr. Jonas?

2 MR. JONAS: May I just voir dire from here?

3 THE COURT: Yes.

4 Q. (BY MR. JONAS) Have you ever been to any of these summer
5 camps?

6 A. No, sir.

7 Q. How do you know that these pictures accurately depict
8 what is in the summer camps if you have never been there?

9 A. The logo on the banner.

10 Q. Do you recognize anything besides the logo on the
11 banners?

12 A. No, sir.

13 Q. How do you know that these kids were actually at a summer
14 camp?

15 A. I don't know.

16 Q. Do you know when these pictures were taken?

17 A. 2001.

18 Q. Does it say that on the picture?

19 A. Yes, sir.

20 Q. Do you know that independently of what it says in the
21 picture?

22 A. That is the only way I can know.

23 Q. Again, do you know who took the picture?

24 A. No, sir.

25 MR. JONAS: Your Honor, we object. Lack of

1 foundation.

2 THE COURT: Those that have the banner and logo or
3 banner and a date -- the location, you say there are some of
4 those that have that?

5 MS. DUNCAN: Yes, Your Honor.

6 THE COURT: I think those are admissible. I don't
7 know if you laid a sufficient foundation for the others.

8 MS. DUNCAN: I think with respect -- Let me ask just
9 about a couple that may.

10 THE COURT: Do you want to identify those that have
11 that information on it that have a date and location?

12 Q. (BY MS. DUNCAN) Mr. Yaish, could you look at Defendants'
13 Exhibit No. 1116?

14 A. Yes, ma'am.

15 Q. Is there a sign in this picture that identifies the
16 location and the date of the summer camp?

17 A. Yes, ma'am.

18 Q. And could you turn to No. 1120?

19 A. Yes, ma'am.

20 Q. Do you see a similar sign?

21 A. Yes, ma'am.

22 Q. Okay. And if you would look at Defense Exhibit No. 1118?

23 A. Yes, ma'am.

24 Q. I think the sign is hard to read, but do you recognize
25 the location in which they are standing?

1 A. No, ma'am.

2 Q. Okay. If you would look at No. 1121 and 1124 and tell me
3 if the signs shown in those pictures identify the place and
4 the date.

5 A. No. 1121 I don't see any dates.

6 Q. Okay.

7 A. I can see the logo. No. 1124 has the 2001.

8 Q. Okay.

9 A. With the banner and the logo.

10 Q. If you could look at Defendants' Exhibit No. 1132 and
11 1138, and tell me, do you recognize the location where these
12 were taken?

13 A. I can recognize the ruins in the city of Baalbek,
14 Lebanon.

15 Q. And that is Defendants' Exhibit No. 1132?

16 A. Yes, ma'am.

17 Q. And how about with Defendants' Exhibit No. 1138?

18 A. No, ma'am.

19 Q. Okay.

20 MS. DUNCAN: Your Honor, so I think we have the
21 signs you were asking about in Defendants' Exhibit No. 1116,
22 1120, 1124, and then Mr. Yaish was able to identify the
23 location of 1132, which also it just has the Holy Land logo
24 but does not have an independent sign.

25 THE COURT: So four?

1 MS. DUNCAN: 1116, 1120, 1132, and 1124. That is
2 right.

3 THE COURT: All right. And those exhibits are
4 admitted, those four. And the others, the objection is
5 sustained.

6 MS. DUNCAN: Martha, if we can start with No. 1116.

7 Q. (BY MS. DUNCAN) And Mr. Yaish, could you tell us where
8 in this photograph you see the sign identifying it as a Holy
9 Land project in 2001?

10 A. There is the logo here which is the Holy Land Foundation,
11 and the banner itself says "Orphans of the Holy Land
12 Foundation for Relief and Development, summer camp 2001."

13 Q. And that is the sign that the children are holding up?

14 A. Yes, ma'am.

15 MS. DUNCAN: And if we could turn to No. 1120.

16 Q. (BY MS. DUNCAN) I think we see the same sign being held
17 up in the back. What else is pictured in this photograph, Mr.
18 Yaish?

19 A. Well, some kids, I mean, trying to learn on computers.

20 MS. DUNCAN: And if we could go to No. 124, please.

21 Q. (BY MS. DUNCAN) And here I think we see the sign on the
22 left hand of the photograph.

23 A. Yes, ma'am. Same banner behind those kids where it says
24 "Orphans of Holy Land Foundation for Relief and Development,
25 summer camp 2001."

1 MS. DUNCAN: And then finally No. 1132.

2 Q. (BY MS. DUNCAN) And if you could remind us where this
3 was taken?

4 A. This looks like in the city of Baalbek in Lebanon.

5 Q. And we see the Holy Land logo. I think there is a little
6 girl holding it up at the bottom.

7 A. Yes, ma'am.

8 Q. And Mr. Yaish, this doesn't show the only summer camp
9 that the Holy Land Foundation funded, does it?

10 A. No, ma'am.

11 Q. Thank you. They have funded other similar programs?

12 A. Yes, ma'am.

13 Q. I would like to talk a little about the health programs.
14 Did the Holy Land Foundation fund hospitals or health clinics?

15 A. Yes, ma'am.

16 Q. What other health programs did Holy Land support?

17 A. Other than hospitals?

18 Q. Yes.

19 A. Well, we provide medical supplies, medical equipment, and
20 sometimes we bring over some children that they need some
21 immediate medical attention to the United States where there
22 is some local doctors will perform some surgeries, you know,
23 as a volunteer.

24 Q. Okay. Did the Holy Land Foundation ever fund sort of
25 specialty health clinics, like dental clinics or eye clinics?

1 A. Yes, ma'am.

2 Q. Could you turn to tab H in your notebook, please? And
3 there are only three photographs so this will go more quickly.
4 You should have Defense Exhibits No. 261, 379, and 407. If
5 you could look at those for me, please.

6 A. Yes, ma'am.

7 Q. Do you recognize the hospital shown in this photograph?

8 A. This is the sign of the --

9 Q. Don't tell us what is in it. Just tell me if you
10 recognize it.

11 A. Yes, ma'am.

12 Q. And is this a place that the Holy Land Foundation
13 supported?

14 A. Yes, ma'am.

15 Q. And is it -- Were these photographs taken as part of the
16 regularly conducted business of the Holy Land Foundation?

17 A. Yes, ma'am.

18 Q. And were they kept in the files of the Holy Land
19 Foundation as a part of its regularly conducted business?

20 A. Yes, ma'am.

21 Q. And from looking at the photographs, does it appear that
22 they were taken at the time of the activities that are being
23 depicted here?

24 A. Yes, ma'am.

25 MS. DUNCAN: Your Honor, we move the admission of

1 Defendants' Exhibit No. 261, 379, and 407.

2 MR. JONAS: May I ask my questions?

3 THE COURT: Yes.

4 Q. (BY MR. JONAS) Sir, do you know when these pictures were
5 taken?

6 A. No, sir.

7 Q. Have you been to these locations?

8 A. No, sir.

9 Q. Do you know who took the pictures?

10 A. No, sir.

11 Q. Do you see any Holy Land logos in these pictures?

12 A. Yes, sir.

13 Q. In every picture?

14 A. The first two.

15 Q. What about the third one?

16 A. The third one just says the Holy Land Foundation as a
17 banner.

18 Q. But do you have any dates on these pictures?

19 A. No, sir.

20 Q. Again, you haven't been there. Correct?

21 A. No, sir.

22 MR. JONAS: Your Honor, we object; lack of
23 foundation.

24 THE COURT: You stated you recognize the location.

25 How do you recognize it?

1 THE WITNESS: Because this hospital, you know, the
2 Holy Land Foundation, you know, belonged to --

3 THE COURT: How do you recognize it, though?

4 THE WITNESS: The sign where it says the Dar
5 al-Salam Hospital, Holy Land Foundation for Relief and
6 Development.

7 THE COURT: And you recognize that name?

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. The objections are overruled
10 and those three exhibits are admitted.

11 MS. DUNCAN: If we could start with No. 261, please.

12 Q. (BY MS. DUNCAN) This is a photograph of a Dar al-Salam
13 Hospital?

14 A. Yes, ma'am.

15 Q. And did the Holy Land Foundation support this hospital?

16 A. Yes, ma'am.

17 MS. DUNCAN: If you could go to No. 379.

18 Q. (BY MS. DUNCAN) Does this appear to be the same
19 hospital?

20 A. Yes, ma'am.

21 Q. And what also is shown in this photograph?

22 A. It shows like the medical team in front of the hospital.

23 MS. DUNCAN: And finally if we could turn to Defense
24 Exhibit No. 407.

25 Q. (BY MS. DUNCAN) Mr. Yaish, could you tell us what that

1 Arabic writing says, please?

2 A. "Holy Land Foundation, Dar al-Salam Hospital, free
3 medical day, children's ward."

4 Q. Thank you.

5 Finally I wanted to talk to you about gifts that the Holy
6 Land Foundation provided to those in need. Did the Holy Land
7 Foundation provide gifts at certain times of the year?

8 A. Yes, ma'am.

9 Q. And what times were those?

10 A. Usually during the Eid, which is, as I explained before,
11 after Ramadan we will have Eid, and there is during the
12 sacrifice, which is Eid al adha.

13 Q. And what sort of gifts would the Holy Land Foundation
14 provide?

15 A. Well, usually the donor will donate extra money, I mean
16 for his sponsors during those two occasions. It would be as
17 in cash or could be, you know, as non-cash items, you know.
18 For the children and sometimes for the families, you know, we
19 provide them with, you know, non-cash items to help them
20 during their daily living.

21 Q. It sounds like you are describing two sort of ways to
22 provide gifts on Eid. Is one of those through the Social
23 Services Department like the orphan sponsorship program?

24 A. Yes, ma'am.

25 Q. And then did the Holy Land Foundation also have programs

1 for distributing gifts beyond the orphan program?

2 A. Yes, ma'am.

3 Q. And can you just tell us what kind of gifts what sort of
4 things?

5 A. Well, sometimes, I mean, the social workers, you know,
6 will get some feedback from the needy families what they
7 really need during those special occasions. Some of them they
8 would ask like for a refrigerator, or some of them for a
9 cooktop, some of them for a mattress. It depends. And, you
10 know, a list of those items will be sent, of course, to Holy
11 Land Foundation Richardson office where we, you know, will try
12 to match, you know, those needy families' needs during the Eid
13 time.

14 Q. Could you turn to tab I in your notebook, please? I
15 think you should see Defense Exhibits No. 313, 315, 316, 332,
16 333, 335, 336, 337, 338, 356, 357, 360 and 361. Now, if you
17 could go through those a little more slowly than I did and see
18 if you identify the Holy Land logo or any of the people shown
19 in these photographs.

20 A. Yes, ma'am.

21 Q. And we will start with No. 313. Do you see anyone you
22 recognize in this photograph?

23 A. Yes, ma'am.

24 Q. And No. 315?

25 A. Yes, ma'am.

1 Q. No. 316?

2 A. Yes, ma'am.

3 Q. And in addition to recognizing the person, do you see the
4 Holy Land logo anywhere in this picture?

5 A. The first three pictures I didn't see the logo.

6 Q. I am sorry?

7 A. The first three pictures I didn't see the logo.

8 MS. DUNCAN: Can I approach, Your Honor?

9 THE COURT: Yes.

10 THE WITNESS: There it is. I am sorry. Yes, ma'am.

11 Q. (BY MS. DUNCAN) So that is Defense Exhibit No. 316?

12 A. Yes, ma'am.

13 Q. Okay. And then No. 332?

14 A. Yes, ma'am.

15 Q. No. 333?

16 A. Yes, ma'am.

17 Q. And No. 335, do you recognize anyone in No. 335?

18 A. No, ma'am.

19 Q. Do you recognize the logo?

20 A. Yes, ma'am.

21 Q. And does that appear to be taken in the same place as the
22 other photographs?

23 A. Possible.

24 Q. Defense Exhibit No. 336.

25 A. I can see the same guy on No. 335, his picture is also in

1 No. 336.

2 Q. Okay. And do you recognize anyone in No. 337?

3 A. No, ma'am.

4 Q. How about in No. 338?

5 A. Just the backside, you know.

6 Q. So do you recognize him?

7 A. I just recognize, I mean, the jacket, but not the --

8 Q. Okay. And I think No. 356, if I can identify which is
9 the logo and which is the person?

10 MR. JONAS: For you to identify?

11 MS. DUNCAN: It make it go quicker.

12 MR. JONAS: Whichever is quicker.

13 MS. DUNCAN: In No. 356, Your Honor, there is a logo
14 but not a person.

15 THE COURT: Anything that indicates the place or
16 location?

17 MS. DUNCAN: All these pictures are in the same
18 area, as you an tell when you put them together. I can show
19 them to you if you would like.

20 THE COURT: Why don't you. And Mr. Jonas, come up
21 and let's take a look at them.

22 (The following was had outside the presence and
23 hearing of the jury.)

24 MS. DUNCAN: My copies are in black and white.

25 THE COURT: That is all right.

1 MS. DUNCAN: Okay. So he can recognize this man
2 right here in Gaza. He does not recognize the other people.

3 THE COURT: Does it also indicate place? He is the
4 HLF employee in Gaza?

5 MS. DUNCAN: He is the HLF person in Gaza.

6 MR. JONAS: Is there a date?

7 MS. DUNCAN: I haven't gone through them all, but I
8 haven't seen a date. And if you flip through them, you see
9 him and you will see the people with him -- That is him, and I
10 think he can identify that these are the sorts of gifts that
11 Holy Land gave.

12 MR. JONAS: What is this?

13 MS. DUNCAN: That is a washing machine.

14 MR. JONAS: Is this the same individual?

15 MS. DUNCAN: He doesn't appear in all of the
16 photographs.

17 MR. JONAS: How does he know --

18 MS. DUNCAN: He knows this person is from the Gaza
19 office, the Holy Land employee from Gaza.

20 THE COURT: And that is him there?

21 MS. DUNCAN: That is him.

22 THE COURT: This appears to be from the back, yeah.
23 And that is him?

24 MS. DUNCAN: That is him, but he doesn't know the
25 other two.

1 THE COURT: But that is Holy Land?

2 MS. DUNCAN: Yes, and that is Holy Land.

3 MR. JONAS: Do you know what they are off-loading,
4 what that is?

5 MS. DUNCAN: That is a stove. You know, I might
6 want to come back to this because I actually have better
7 pictures that show what these are and I didn't put them in.

8 MR. JONAS: If we can go back to the last one, he
9 says he does not recognize these individuals?

10 MS. DUNCAN: He does not recognize these two. There
11 is one he does recognize.

12 THE COURT: You are saying you do want to pick some
13 other pictures?

14 MS. DUNCAN: Based on Mr. Jonas' questions, I have
15 pictures of these men with the stoves and the logos. I tried
16 to cull them out, but I can come back to them. So if we take
17 a like 15 minutes?

18 THE COURT: Yes, in about 15 minutes.

19 MS. DUNCAN: I know you are going to object, but I
20 can get him to identify for the Court where they came from.

21 MR. JONAS: I think we can shortcut a lot of this.

22 THE COURT: I am looking, and sometimes the date is
23 important and sometimes it isn't. And so I don't know that
24 here it is. It appears to be a place like Gaza. He is a Gaza
25 employee. This tells me it is likely Gaza. And then the HLF,

1 I think as long as he can recognize somebody.

2 MS. DUNCAN: I don't think he recognizes that guy.

3 And there is the Holy Land employee.

4 THE COURT: And then, of course, he recognizes these
5 are the kinds of things that they have given, so I think there
6 is enough. Of course, they are all different, but what I am
7 looking for is something to -- some idea, without being
8 certain, but that is likely what it is.

9 MS. DUNCAN: I think I am done after this. I think
10 I only have one other photograph.

11 MR. JONAS: Done in terms of pictures or
12 questioning?

13 MS. DUNCAN: Just pictures. But why don't I grab
14 the last picture and get it all done now.

15 THE COURT: Go ahead.

16 MR. JONAS: So these will be in and those won't?

17 THE COURT: Yes. I think that is right. The only
18 other one I was going to do is this one. He is familiar with
19 this type of picture.

20 MR. JONAS: Are those power lines going up?

21 THE COURT: It looks like a transformer project or
22 something. But it has Lebanon, of course Holy Land Foundation
23 so I think that is -- I guess he will know -- If they did that
24 kind of project, I think that will probably work for you.

25 Okay. Anything else? All right. So these are in and

1 these are out. At some point just state those for the record.

2 (The following was had in the presence and hearing
3 of the jury.)

4 MS. DUNCAN: If we can start with Defense Exhibit
5 No. 313.

6 Q. (BY MS. DUNCAN) Mr. Yaish, do you recognize these?

7 A. Yes, ma'am.

8 Q. Are these the kind of items you were talking about as Eid
9 gifts?

10 A. Yes, ma'am.

11 Q. While we have this up here, we have also talked a little
12 bit about demolished homes in this case. Do you know, did
13 Holy Land Foundation provide any kind of aid to families whose
14 homes were demolished?

15 A. Yes, ma'am.

16 Q. And was the aid that they provided similar to this in
17 terms of household goods?

18 A. Yes, ma'am.

19 MS. DUNCAN: If we could turn to No. 315. You can
20 actually go to No. 316.

21 Q. (BY MS. DUNCAN) And this person who is pictured here on
22 the right in the gray jacket, do you recognize him?

23 A. Yes, ma'am.

24 Q. And who is he?

25 A. This is Mr. Anees, employee of Holy Land Foundation Gaza

1 office.

2 MS. DUNCAN: If we can go to No. 333.

3 THE WITNESS: Same person.

4 MS. DUNCAN: And No. 336.

5 THE WITNESS: Same; Mr. Anees.

6 MS. DUNCAN: And No. 357.

7 THE WITNESS: Same; Mr. Anees in the back.

8 Q. (BY MS. DUNCAN) And I think you said that he worked for
9 Holy Land Foundation in the Gaza office?

10 A. Yes, ma'am.

11 MS. DUNCAN: No. 360.

12 THE WITNESS: Same; Mr. Anees.

13 MS. DUNCAN: And No. 361.

14 Q. (BY MS. DUNCAN) Do you recognize this as Gaza?

15 A. Can you repeat your question?

16 Q. Sorry. Do you recognize this photograph as Gaza?

17 A. Well, I recognize Mr. Anees and he is in Gaza.

18 Q. Thank you.

19 Now, those photographs showed sort of household items.

20 Did the Holy Land Foundation also give Eid gifts, for example,
21 to children?

22 A. Yes, ma'am.

23 Q. And what kind of gifts would they give to them?

24 A. Sometimes new clothes or shoes or cash.

25 Q. Finally I would like to talk a little bit about the

1 community development projects that Holy Land funded. And by
2 that I don't mean the economic development projects you talked
3 about earlier in terms of sewing, but rather the projects that
4 the Holy Land Foundation did to help a whole community. Could
5 you tell us a little bit about those programs?

6 A. Well, I mean, we did some projects like digging wells to
7 provide pure water and clean water especially for the refugees
8 camps, you know.

9 Some other projects, I mean as I told you, small projects
10 would be, you know, like animals, farm animals would be given
11 so they can raise it and, you know, and live off of those
12 animals, whether it is the milk or the eggs, you know,
13 producing those type of projects, or just a small grocery
14 store that you can make a living out of it.

15 Q. Could you turn to tab J in your notebook, please? Do you
16 recognize this photograph?

17 A. Yes, ma'am.

18 Q. Do you recognize it as a program or a project that the
19 Holy Land Foundation sponsored?

20 A. It is a project that we sponsored in Lebanon to
21 replace --

22 Q. Wait. Before you tell us about it, we need to go through
23 the predicate and get it in.

24 A. Sure.

25 Q. And is this sort of an example of the community

1 development projects that Holy Land funded?

2 A. Yes, ma'am.

3 Q. And would this type of photograph be taken at the
4 direction of the Holy Land Foundation?

5 A. Yes, ma'am.

6 Q. And would that be part of its regularly conducted
7 business?

8 A. Yes, ma'am.

9 Q. Would it be kept in the Holy Land Foundation's files as
10 part of the report on the project and, therefore, part of the
11 records of its regularly conducted business?

12 A. Yes, ma'am.

13 MS. DUNCAN: Your Honor, we move the admission of
14 1192.

15 MR. JONAS: Same issues as before.

16 THE COURT: Okay. And that is admitted, Defense
17 Exhibit No. 1192.

18 MS. DUNCAN: If we could publish No. 1192.

19 Q. (BY MS. DUNCAN) Could you tell us what this shows,
20 Mr. Yaish?

21 A. Can you speak louder a little bit?

22 Q. Can you tell us what is shown in this photograph?

23 A. This is a project replacing I think electric power, you
24 know, in Lebanon.

25 Q. So it is constructing some -- it looks like an electric

1 transformer project?

2 A. Yes, ma'am.

3 Q. To bring electricity to the camp. Thank you.

4 MS. DUNCAN: Your Honor, my next section may go a
5 lot more quickly if we could take a break now and confer with
6 counsel for the Government.

7 THE COURT: Let's go ahead and take a 20-minute
8 break.

9 (Whereupon, the jury left the courtroom.)

10 THE COURT: We will be in recess for 20 minutes.

11 (Brief Recess.)

12 THE COURT: Ms. Duncan?

13 MS. DUNCAN: Thank you.

14 Q. (BY MS. DUNCAN) Mr. Yaish, when we were talking about
15 the Dar al-Salam Hospital in Gaza, do you know what Dar
16 al-Salam means?

17 A. The city of peace.

18 Q. We have talked about the Holy Land Foundation annual
19 reports and we went through the 1997 report. The 2000 report,
20 which is Defendants' Exhibit No. 667, is that similar to the
21 1997 report?

22 A. The 2000 report?

23 Q. The two annual reports, if you look at tab C in your
24 notebook.

25 A. Do you mean the 2000 annual report with the 1997 annual

1 report?

2 Q. Yes.

3 A. Yes.

4 Q. The jury will have these. I am not going to go through
5 them. I just want to identify the sections. But with the
6 1997 report, we had the mission statement of the Holy Land
7 Foundation. Do we have this in this 2000 report?

8 A. Yes.

9 Q. Does it talk about some of the accomplishments of the
10 Foundation in this document?

11 A. Yes, ma'am.

12 Q. And does it also include the financial statement that you
13 talked about earlier?

14 A. Yes, ma'am.

15 Q. Okay. Now, in addition to the annual report, did the
16 Holy Land Foundation publish any publications that would
17 describe its work?

18 A. Yes, ma'am.

19 Q. And what were those?

20 A. Monthly newsletters.

21 Q. Do you know what the newsletter was called?

22 A. Monthly newsletter.

23 Q. Okay. And what was the title of the newsletter?

24 A. "S.H.A.R.E."

25 Q. And what kind of information was provided in that?

1 A. You know, the accomplishments of the Holy Land Foundation
2 during the month, that is the newsletter being published.

3 Q. And who wrote those?

4 A. Usually, you know, each department will write about their
5 accomplishments, and those would be given to Natalie Suleiman
6 who would collect all of the information and put it into the
7 newsletter shape, and it would be forwarded to Mr. Shukri for
8 editing.

9 Q. Could you please turn to tab D in your notebook? And you
10 should have Defendants' Exhibit No. 83, 84, and 862.

11 A. Yes, ma'am.

12 Q. Starting with Defendants' Exhibit No. 83, can you tell us
13 the date?

14 A. August 1999.

15 Q. And the same information for Defendants' Exhibit No. 84?

16 A. July 2001.

17 Q. And finally for Defendants' Exhibit No. 862.

18 A. May 2000.

19 Q. You have said that the information provided in these
20 reports was provided by the different program people and then
21 compiled by Natalie Suleiman. Is that right?

22 A. Right.

23 Q. So was the information given by someone with personal
24 knowledge --

25 A. Yes.

1 Q. -- of the events?

2 And was it a part of Holy Land's regular business
3 practice to publish these newsletters?

4 A. Yes.

5 Q. And were the newsletters kept in the course of regular
6 Holy Land business?

7 A. Yes.

8 MS. DUNCAN: Your Honor, we move the admission of
9 Defendants' Exhibit No. 83, 84, and No. 862.

10 THE COURT: Okay. Objection?

11 MR. JONAS: Yes.

12 THE COURT: Approach the bench and bring these with
13 you, if you would.

14 (The following was had outside the hearing of the
15 jury.)

16 THE COURT: Let me take a look at those. You object
17 to all of it?

18 MR. JONAS: Yes, sir. We think the whole thing is
19 hearsay. It is really -- This is a statement of the Holy Land
20 Foundation, their business is allegedly -- charity is of
21 course the subject of this case, but they are not publishing
22 newsletters. So we think it is hearsay. There is hearsay
23 contained within hearsay within this. We also think it is not
24 relevant, and it is unduly prejudicial because some of the
25 information contained in there.

1 MS. DUNCAN: Part of the business of a charity is
2 fundraising and providing accurate information to the people
3 who donate to them. There has also been a lot of evidence in
4 this case, for example, about IAP publications from 1990 in an
5 effort to say this was really the message that Holy Land was
6 spreading to the whole world, and these are actually the Holy
7 Land Foundation newsletters and so this is a far more accurate
8 expression.

9 Also I think that there were questions to Mr. Shorbagi
10 about the Holy Land newsletters, so we are offering those in
11 response to that as well. And we are offering it as a
12 business record. I think there was one portion that I thought
13 you might have a specific objection to. I haven't seen it
14 flipped by, from 2001.

15 THE COURT: Do you know the number?

16 MR. JONAS: That is part of the hearsay within the
17 hearsay, those quotes.

18 MS. DUNCAN: We are mostly concerned with the
19 reporting of the Holy Land Foundation activities, and
20 obviously this is of a different character.

21 THE COURT: I don't think this would come in with
22 this kind of report. I think when you are reporting the
23 activities, that would be fine.

24 MS. DUNCAN: I think we could almost pull those
25 pages out.

1 THE COURT: Anything else in particular, Mr. Jonas.

2 MR. JONAS: No, other than Ms. Duncan pointed out
3 those two pages. I think everything else is --

4 THE COURT: It just appears --

5 MR. JONAS: Yes. There is a letter from somebody.

6 THE COURT: I think anything where they are
7 describing, you know, activities -- The Israelis, getting into
8 that, that wouldn't be appropriate. That wouldn't come in.
9 But as far as reporting the activities, I think that is okay.

10 So 83, 84, and 862 are admitted in part under those
11 conditions.

12 (The following was had in the presence and hearing
13 of the jury.)

14 MS. DUNCAN: May I have control of the elmo?

15 Q. (BY MS. DUNCAN) This is Defendants' Exhibit No. 83. I
16 won't go through all of these, but I just kind of wanted to
17 show -- Is this the newsletter you were talking about?

18 A. Yes, ma'am.

19 Q. And this one is from August of 1999?

20 A. Yes, ma'am.

21 Q. Can you tell us, do you recognize the man who is on the
22 left hand side of the screen in the picture with the child?

23 A. That is Haitham Maghawri during his trip to Kosovo.

24 Q. And so these newsletters, they would report on the
25 activities of the Holy Land Foundation?

1 A. Yes, ma'am.

2 Q. I think with this one we had talked earlier about the Eid
3 gifts. Does this appear to be photographs of a summer
4 program?

5 A. Yes, ma'am.

6 Q. Here on page 3, "Wanted, dedicated sponsors." What is
7 that column? What is the purpose of that column?

8 A. This is a way of you know trying to find sponsors for
9 those orphans through the monthly newsletters.

10 Q. Here you show some work in Kosovo. I don't know if you
11 can see this photograph at the bottom. Do you recognize the
12 person who is pictured here?

13 A. Yes, ma'am.

14 Q. Who is that?

15 A. This is Mr. Abdulrahman Odeh.

16 Q. And I will read this part. "Two general practice mobile
17 clinics were purchased in Germany. Two doctors and a nurse
18 made rounds in a clinic. The Islamic world committee agreed
19 to oversee maintenance and administration at Duress camp,
20 while the Samaritan Purse oversaw the clinic in Hamallaj 2."

21 The update has, "Refugees returned home. One clinic is
22 now in" -- I am not going to pronounce it. Please forgive me.
23 "...Kosovo (near capital), and the other is Gjakova, Kosovo
24 (near Albanian border).

25 I think you testified earlier about Mr. Odeh's trip to

1 Kosovo.

2 A. Yes, ma'am.

3 Q. Here this is page -- I don't see a page number.

4 THE COURT: With your back to the jury and you are
5 speaking softly, I think they can't hear you.

6 MS. DUNCAN: I apologize.

7 Q. (BY MS. DUNCAN) Here we show a food package
8 distribution. Is that a system to what we have been talking
9 about earlier?

10 A. Yes, ma'am.

11 Q. And again here where it shows here a picture of a bakery,
12 I think you were talking about that earlier, in Kosovo as
13 well.

14 A. Yes, ma'am.

15 Q. And I think -- Here do you see this banner in the center?

16 A. Yes, ma'am.

17 Q. Is that similar to the banners you were talking about
18 earlier identifying the source of the funds for projects as
19 coming from the United States?

20 A. Yes, ma'am.

21 Q. And finally this is the last page, page 9. You have
22 clean-up efforts in Oklahoma. Is that the project you were
23 talking about with the tornado clean-up efforts?

24 A. Yes, ma'am.

25 Q. Thank you.

1 I will just go quickly through one more. This is Defense
2 Exhibit 84. And do you see here this photograph of what
3 appears to be a young man on an exercise bike?

4 A. He is a blind man.

5 Q. Are you familiar or did Holy Land have pictures -- excuse
6 me. Programs for providing exercise equipment for people in
7 Palestine or in the refugee camps, to your knowledge?

8 A. No, ma'am.

9 Q. Here on page 3 we have an article showing the Holy Land
10 Foundation distributing ten ambulances throughout Palestine.
11 Do you recall this program of --

12 A. Yes, ma'am.

13 Q. And then finally Defense Exhibit No. 862, turning to page
14 3 of the exhibit, I know it is hard to read, it says, "In the
15 wake of the storm, HLF donates \$10,000 to Fort Worth."

16 Are you familiar with what this article is talking about?

17 A. Yes, ma'am.

18 Q. Would you tell us about that?

19 A. Well, this is the tornado that hit downtown Fort Worth.
20 I am not sure of the year. 2000 or earlier. We donated
21 \$10,000 to the City of Fort Worth.

22 Q. I think this newsletter is dated May 2000.

23 I would like to show you page 5, just a brief paragraph
24 here, and I will read it, given that it is just really hard to
25 see.

1 It says, "We encourage our donors to remain in contact
2 with their orphans and needy families as a means of learning
3 more about how they are while at the same time creating a
4 sense of belonging to the beneficiaries. Indeed the orphans
5 and needy families who remain in communication with their
6 sponsors feel they are not alone, but instead are part of an
7 extended family abroad."

8 In your experience while you were working with the Holy
9 Land Foundation, did it encourage its donors to correspond
10 with or even visit their orphans?

11 A. Well, correspondence yes; but visit, I don't know.

12 Q. And again I won't go through the whole thing. The jury
13 will have these. Finally I would like to show you some
14 photographs and documents that have been referred to
15 previously in this trial or will be coming up.

16 If you could turn to tab K in your notebook, do you see
17 Defense Exhibit No. 426?

18 A. Yes, ma'am.

19 Q. Do you recognize the person who is shown on the left hand
20 side of the photograph?

21 A. Yes, ma'am.

22 Q. Do you recognize -- Who is that?

23 A. This is Abu Muharam.

24 Q. And do you recognize the person on the right?

25 A. No, ma'am.

1 Q. With respect to Mr. Abu Muhamar, is that a fair and
2 accurate picture of him?

3 A. Yes, ma'am.

4 Q. And now if you look behind that photograph, you will see
5 a series of documents starting with -- They are HLF Search
6 No. 137, HLF Search No. 170, Defense Exhibit 1065, Defense
7 Exhibit No. 1070, 1395, 1397, 1400, and 1401.

8 In your capacity as Holy Land's accountant, are you
9 familiar with Holy Land's filing and recordkeeping, generally.

10 A. Yes, ma'am.

11 Q. Have you seen these documents before?

12 A. I have seen similar.

13 Q. And are these documents that were created in the course
14 of the regularly conducted business of the Holy Land
15 Foundation or its grantees?

16 A. Yes, ma'am.

17 Q. Were they kept in the Holy Land files as part of the
18 regularly conducted business of the Holy Land Foundation?

19 A. Yes, ma'am.

20 Q. And to the best of your knowledge, were the records
21 created by a person with knowledge or from information
22 provided by a person with knowledge at or around the time of
23 the events that are discussed in those documents?

24 A. Yes, ma'am.

25 MS. DUNCAN: Your Honor, I would move the admission

1 of HLF Search No. 137, 170, Defense Exhibit 1065, 1070, 1395,
2 1397, 1400, and 1401.

3 THE COURT: And you identified a picture as No. 426?

4 MS. DUNCAN: Yes.

5 MR. JONAS: Are you moving No. 426 as well?

6 MS. DUNCAN: I don't think so. No, I am just asking
7 him to identify Mr. Abu Muharam.

8 THE COURT: You are not moving No. 426 now?

9 MS. DUNCAN: Not now.

10 MR. JONAS: With regard to the other exhibits, these
11 have been previously discussed and we have no objection.

12 THE COURT: Those are admitted.

13 MS. DUNCAN: And finally, Mr. Yaish, during the
14 years that you worked for the Holy Land Foundation, do you
15 know how many people the Foundation helped.

16 A. Thousands.

17 Q. Thank you.

18 MS. DUNCAN: I have no further questions.

19 THE COURT: Ms. Cadeddu?

20 MS. CADEDDU: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 By Ms. Cadeddu:

23 Q. Good afternoon, Mr. Yaish.

24 A. Good afternoon.

25 Q. Mr. Yaish, can you tell us, at the time that you were

1 working with the Holy Land Foundation, was your work at the
2 Holy Land Foundation your only source of income?

3 A. No, ma'am.

4 Q. Did you have some side work?

5 A. Yes, ma'am.

6 Q. And what was that, sir?

7 A. I was doing taxes and some accounting on the side for
8 some clients.

9 Q. And what kind of work did that involve?

10 A. Tax preparation and monthly financial statements for some
11 small businesses.

12 Q. And how did you get the clients in your side business of
13 being a CPA?

14 A. Well, I had some of them before I joined the Holy Land
15 Foundation, and I gained some during my work with the Holy
16 Land Foundation.

17 Q. And was Mufid Abdulqader one of those you gained while
18 you were at the Holy Land Foundation?

19 A. Yes, ma'am.

20 Q. How long have you known Mr. Abdulqader?

21 A. Well --

22 Q. Approximately.

23 A. Approximately, after 1997.

24 Q. And when did you begin doing the tax returns for
25 Mr. Abdulqader and his wife Diane?

1 A. 1999 and forward.

2 Q. And are you still his tax preparer?

3 A. Yes, ma'am.

4 Q. When you -- At the time that you began doing his tax
5 returns, and the whole time that he was a Holy Land volunteer,
6 what did Mr. Abdulqader do for a living?

7 A. He was an engineer.

8 Q. Where did he work, sir?

9 A. City of Dallas.

10 Q. Now, to your knowledge, Mr. Abdulqader is a citizen?

11 A. Yes, ma'am.

12 Q. And his wife also?

13 A. Of course.

14 Q. As Mr. Abdulqader's tax preparer, and I guess also as the
15 Holy Land Foundation accountant, are you aware of whether
16 Mr. Abdulqader had a side business or another source of
17 income?

18 A. Yes, ma'am.

19 Q. And what was that, sir?

20 A. He was a member of a band performing some dancing and
21 singing called Al-Nujoom Entertainment.

22 Q. And what document have you seen as his tax preparer that
23 would tell you -- at the time you first began preparing his
24 taxes that would tell you about his work with Al-Nujoom band?

25 A. He received a 1099 form for the money received, you know,

1 performing some, I would say, songs and dancing.

2 Q. And what exactly -- Can you describe what a 1099 is, the
3 function of it?

4 A. Usually a 1099 would be given to a contractor who would
5 be contracted to do certain jobs, you know, for somebody if it
6 is \$600 or up.

7 Q. Sorry, sir. I didn't mean to interrupt you. Are you
8 done?

9 A. No problem.

10 Q. Do you know whether the Al-Nujoom band had different
11 managers over time?

12 A. Yes, ma'am.

13 Q. And did there actually come a point where Mr. Abdulqader
14 became the band manager rather than just a performer in the
15 band?

16 A. Yes, ma'am.

17 Q. And when was that?

18 A. Year 2000.

19 Q. And how do you know that?

20 A. Well, because he issued 1099s to other members, and he
21 prepared the Schedule C, you know, in his individual tax
22 return.

23 Q. So what exactly is a Schedule C as distinct from the
24 1099?

25 A. Well, Schedule C, it is an IRS form, part of the

1 individual income tax return would be prepared, you know, for
2 the in the income and expenses that is incurred for sole
3 proprietorship, and when the time he issues a 1099 to somebody
4 I would know that is -- you know, he is the sole
5 proprietorship, you know.

6 Q. Okay. And so before 2000 or in 2000 he started issuing
7 1099s to other band members. Before that he was one of the
8 band members receiving them?

9 A. Yes, ma'am.

10 Q. Now, based upon your review of the tax records, what
11 sorts of activities did the Al-Nujoom band engage in?

12 A. Well, it engaged in actually wedding parties, you know,
13 it engaged in special events, fundraising events. I would say
14 mostly special events and wedding parties.

15 Q. And what was another component to the income? And you
16 know this because you helped prepare Mr. Abdulqader's tax
17 returns. Right?

18 A. Yes.

19 Q. What was another -- Was there another component to the
20 income that the Al-Nujoom band earned?

21 A. They used to sell CDs for some songs.

22 Q. Did the Al-Nujoom band only perform at Holy Land
23 Foundation functions?

24 A. No, ma'am.

25 Q. So were there other people who would hire the Holy Land

1 Foundation?

2 A. Yes, ma'am.

3 Q. Now, you mentioned weddings. From your review of the tax
4 records, how many weddings do you recall on average the
5 Al-Nujoom band played at during the course of a year?

6 A. Sometimes I would see six weddings a year.

7 Q. And did you ever personally see Mr. Abdulqader perform
8 with the Al-Nujoom band?

9 A. Yes, ma'am.

10 Q. How many occasions?

11 A. Two occasions.

12 Q. And what were those occasions?

13 A. One of them at a wedding party and the other one during
14 the fundraising of Holy Land Foundation.

15 Q. And based upon your review of the tax forms, again what
16 was the range of income that the band would earn over the
17 period of years or actually rather -- Let me strike that. Let
18 me start over. What was the range of income that
19 Mr. Abdulqader would earn from his participation with the band
20 during the course of a year?

21 A. Well, sometimes he would be making losses up to \$6,000
22 and sometimes he would be making profit up to \$6,000.

23 Q. And so was the band ever a primary source of income for
24 Mr. Abdulqader?

25 A. No, ma'am.

1 Q. Okay. What was?

2 A. He was a civil engineer with the City of Dallas.

3 Q. And would you guess, from your review of the tax records
4 was the band a primary source of income for any of the
5 members?

6 A. No, ma'am.

7 Q. So how would you characterize the band?

8 A. Hobby.

9 Q. You testified a moment ago that Mr. Abdulqader began
10 managing the band in 2000. Are you aware -- Do you know the
11 names of anyone else over the years who also managed the band?

12 A. Yes, ma'am.

13 Q. And who would be some of those people?

14 A. Munzer Taleb was one of them and Kifah Mustapha is the
15 other one.

16 Q. Okay. And Kifah Mustapha, who is he, sir?

17 A. Sorry?

18 Q. Who is Kifah Mustapha?

19 A. Kifah Mustapha is a Holy Land Foundation office manager
20 in Chicago.

21 Q. Okay. Mr. Yaish, I am going to show you what is already
22 in evidence as Government's exhibit HLF Search No. 15. Can
23 you see that, sir?

24 A. Yes, ma'am.

25 Q. Okay. And this is an invoice dated September 1st, 1998.

1 Do you recognize the address that appears below or right over
2 where I am indicating under the name of the band Al-Nujoom?

3 A. Yes, ma'am.

4 Q. And whose address is that?

5 A. This is Munzer Taleb's address.

6 Q. And Munzer Taleb is one of the band members?

7 A. Is also a member of the band, and sometimes they rotate
8 the management of that band.

9 Q. And how do you know that this is -- How do you know that
10 this is Munzer Taleb's address?

11 A. Because I do his income tax also, and usually he writes
12 that address on his mailing -- as a mail address on the income
13 tax.

14 Q. So this right here, is this Mr. Taleb's P.O. Box?

15 A. Yes, ma'am.

16 Q. I would like to turn for a moment to a little different
17 subject. I would like to talk about your work with the Holy
18 Land Foundation and your interactions with Mr. Abdulqader at
19 the Holy Land Foundation or in the context of the Holy Land
20 Foundation.

21 What was Mr. Abdulqader's role with the Holy Land
22 Foundation?

23 A. He was a volunteer fundraiser.

24 Q. And this is probably obvious from the term, but did he
25 get paid a salary to do the fundraising work?

1 A. No, ma'am.

2 Q. What kind of volunteer work did he do?

3 A. He used to travel and make speeches and collect funds on
4 behalf of the Holy Land Foundation.

5 Q. Did he do other sorts of volunteer work for the Holy Land
6 Foundation as well on occasion?

7 A. Sometimes. I mean, if he is in the Holy Land during the
8 telethon he will be just picking up phones and receiving
9 donations from donors.

10 Q. And did you ever actually go on a volunteer trip with
11 Mufid Abdulqader to assist some people?

12 A. Yes, ma'am.

13 Q. And when was that, sir?

14 A. That was when we went to Oklahoma City after the tornado
15 to help clean up the city.

16 Q. And is that -- We have heard about that trip. Is that
17 the one that you have testified to already?

18 A. Yes, ma'am.

19 Q. I would like to show you what is already in evidence as
20 Defense Exhibit D-83, and this is one of the newsletters that
21 Ms. Duncan went over with you. I would like you to take a
22 look at this.

23 Is this an article about that trip that appeared in the
24 Holy Land Foundation newsletter?

25 A. Yes, ma'am.

1 Q. Do you recognize the gentleman who is all the way on the
2 right of this picture?

3 A. That is Mr. Mufid Abdulqader.

4 Q. Thank you, sir.

5 MS. CADEDDU: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes.

8 MS. CADEDDU: I only have one copy of these
9 exhibits.

10 Q. (BY MS. CADEDDU) Mr. Yaish, could you take a look for me
11 at Defendants' Exhibit No. 1197, and D-140, please?

12 Now, with regard to Defendants' Exhibit No. 1197, do you
13 recognize that exhibit, sir?

14 A. Yes, ma'am.

15 Q. And does this involve the trip, the fundraising -- or
16 rather not fundraising, the volunteer trip to Oklahoma that
17 you were discussing earlier?

18 A. Yes, ma'am.

19 Q. And were you actually present when these photographs were
20 taken?

21 A. I was present but I was not in the picture.

22 Q. Okay. But you were there?

23 A. Yes, ma'am.

24 Q. Okay. And then with regard to D-140, do you recognize
25 this document, sir?

1 A. Yes, ma'am.

2 Q. And does this -- Is this a document that was received as
3 a result of this trip that you took to Oklahoma?

4 A. Yes, ma'am.

5 Q. And is this document a receipt that would have been kept
6 in the regular course of business of the Holy Land Foundation?

7 A. Yes, ma'am.

8 Q. And would it have been provided to the Holy Land
9 Foundation by someone who had knowledge of the acts that are
10 talked about therein?

11 A. Yes, ma'am.

12 MS. CADEDDU: Your Honor, I would move admission of
13 Defense Exhibit No. 1197 and Defense Exhibit No. 140.

14 THE COURT: Counsel?

15 MR. JONAS: No objection.

16 THE COURT: Admitted.

17 MS. CADEDDU: May I publish these, Your Honor?

18 THE COURT: Yes.

19 Q. (BY MS. CADEDDU) Mr. Yaish, can you describe what you
20 see here in Defendants' Exhibit No. 1197, please, sir?

21 A. This is a truck being loaded with supplies as a donation
22 from the Holy Land Foundation to the people of Oklahoma City.

23 Q. And again, this was related to the tornados that occurred
24 there?

25 A. Yes, ma'am.

1 Q. And what sorts of supplies were purchased and loaded here
2 and were taken by you and others?

3 A. If I remember, some blankets, pillows, food supplies,
4 baby formula, baby diapers, you know, just regular necessary
5 items to help them through their daily living.

6 Q. And do you remember who went on this trip? I am going to
7 -- Actually there are two photographs of this. Are these
8 essentially depicting the same types of activities--loading of
9 the supplies?

10 A. Yes, ma'am.

11 Q. Thank you, sir.

12 Can you tell me who went on that trip with you, whom you
13 recall?

14 A. Well, I recall some--myself, Mr. Mufid Abdulqader, Mr.
15 Ibrahim al-Samnah, Mr. Riyad Ghoshe, and Mr. Riyad al-Alhi.
16 Those are the five I can remember.

17 Q. And as we said before, this Defense Exhibit No. 83
18 actually has a photograph, it appears that about eight people
19 at least are depicted there in connection with this visit. Is
20 that right?

21 A. Yes, ma'am.

22 Q. And Mr. Yaish, the exhibit I am putting up now on the
23 screen is -- What is that, sir?

24 A. This is acknowledgment of receipt of the non-cash
25 donations which is, I mean, the loading of the truck that we

1 delivered to Oklahoma.

2 Q. And which organization did Holy Land coordinate this
3 particular trip with?

4 A. It seems like this is Associated Catholic Charities.

5 Q. Thank you, sir.

6 A. You are welcome.

7 Q. Now, back once again to Mr. Abdulqader's volunteer
8 fundraising work, you said he didn't get paid a salary. Did
9 he ever get paid a commission for fundraising work?

10 A. No, ma'am.

11 Q. To your knowledge, do you have personal knowledge of
12 whether Mr. Abdulqader did volunteer work for other
13 organizations in the area in addition to the Holy Land
14 Foundation?

15 A. Yes, ma'am.

16 Q. And which ones are those?

17 A. I remember Islamic Society of Irving, Bright Horizon
18 School, and the Richardson Mosque. Those are the three that I
19 remember, because I heard of him, you know, collecting funds
20 for them.

21 Q. And in fact, but this is all still -- What is
22 Mr. Abdulqader's job at the time he is doing all this
23 volunteer fundraising for Holy Land Foundation and other
24 organizations?

25 A. He was a civil engineer.

1 Q. I would like to show you -- Well, actually hang on just
2 one second. During -- What exactly does a volunteer
3 fundraiser do? What is the process?

4 A. Well, usually we -- During a peak period, which is
5 Ramadan and during the Eid, you know, we have a lot of
6 activities that we don't have enough fundraisers to handle, so
7 we seek, you know, from the volunteers who would know -- they
8 have the knowledge how to speak and how to, you know, collect
9 funds, you know, for the Foundation.

10 Q. And what do they do?

11 A. They go, they speak, they collect the funds, and they
12 bring it back to the Holy Land Foundation.

13 Q. Okay. And do they always collect all the funds right on
14 the spot?

15 A. No, ma'am.

16 Q. How do they sometimes come in, the funds?

17 A. Well, sometimes, I mean, you know, the organization will
18 keep the funds and they will send it to the Holy Land
19 Foundation by check at a later time, and sometimes some donors
20 will, you know, give the fundraiser, you know, some cash and
21 he will bring it back with him and deliver it to the
22 Foundation to be deposited for that event.

23 Q. And do people sometimes call later and pledge?

24 A. Yes, ma'am.

25 Q. Now, during the time that you were the head of the

1 accounting department at Holy Land, did the Holy Land
2 Foundation maintain lists of volunteer fundraisers?

3 A. Yes, ma'am.

4 Q. I am going to show you what is already in evidence as HLF
5 Search No. 16, page 2. Can you read this, Mr. Yaish? I don't
6 know if it is clearer for you than it is for me.

7 A. Dr. Abdullah Idris.

8 Q. You don't have the read the whole list. Is this the type
9 of list we are talking about here?

10 A. Yes, ma'am.

11 Q. And do you know some of the people who appear on this
12 list?

13 A. Yes, ma'am.

14 Q. It says "local speakers." Are those all people from
15 Dallas?

16 A. Not necessarily.

17 Q. Where would they have been from?

18 A. Within the United States.

19 Q. And that is what is meant by local?

20 A. Yes, ma'am.

21 Q. Going back to fundraising and your role as the
22 accountant, I would like to talk to you a little bit about
23 expense reimbursement for actually everyone who dealt with the
24 Holy Land Foundation--volunteer fundraisers, employees,
25 everyone.

1 Did volunteer fundraisers get reimbursed for their
2 expenses?

3 A. Yes, ma'am.

4 Q. And what sort of expenses would a volunteer fundraiser
5 incur?

6 A. Well, sometimes they incur airline tickets, hotel
7 accommodations, taxi fare, some meals at the airport while
8 they are waiting, you know, and some petty cash expenses, you
9 know.

10 Q. And did the Holy Land Foundation -- How were -- How was
11 air fare paid for and taken care of?

12 A. There is three different ways that we take care of the
13 air fare. One of them is we book the tickets for the
14 fundraiser, you know, through the Foundation. The other one,
15 the fundraiser would book it himself and get reimbursed when
16 he presented the receipts for that, or he could use his
17 frequent flying mileage and we would reimburse him for the
18 market value of the ticket to that city that he booked to.

19 Q. And did volunteer fundraisers always provide receipts for
20 the expenses that were reimbursed?

21 A. Yes, ma'am.

22 Q. Why was that?

23 A. Because this is part of the controls that I established
24 at the Holy Land Foundation. You know, in order to be
25 reimbursed you have to provide receipts for your expenses.

1 Q. Was that true just for volunteer fundraisers or for
2 everybody?

3 A. For everybody.

4 Q. And would that also be true for times when the Holy Land
5 Foundation would have hired the Al-Nujoom band to perform at a
6 function?

7 A. Yes, ma'am.

8 Q. So if the band had incurred expenses, would the band have
9 to provide receipts for those?

10 A. Correct.

11 Q. I would like to take a look now at another exhibit that
12 has already been admitted, and that is Government Exhibit
13 HLF Search No. 145. Again it is a little hard to read, but
14 what is this, Mr. Yaish?

15 A. This is a check stub that is, you know, to Mufid
16 Abdulqader, for his participation in the San Diego and Florida
17 events as reimbursements.

18 Q. And just so we are clear, is this like if you have a
19 printed check, would this be the bottom half of the printed
20 check?

21 A. Yes, ma'am.

22 Q. Okay. And can you read the HLDL bates number down here
23 at the bottom? Can you read that?

24 A. HLDL22 002452.

25 Q. I would like you to keep that in mind as we look at the

1 next exhibit. I am showing you also what is already in
2 evidence as Defense Exhibit No. 1351. Does this appear to be
3 the same page that we just looked at, Mr. Yaish?

4 A. Yes, ma'am.

5 Q. And part of the way we can tell that would be this little
6 bates number right in the corner. Right?

7 A. Yes, ma'am.

8 Q. Okay. Now, as we go through this I have an extra copy
9 for you so you can take a look at it.

10 MS. CADEDDU: May I approach, Your Honor?

11 THE COURT: Yes.

12 Q. (BY MS. CADEDDU) Okay. Mr. Yaish, if you could, just
13 page through, and can you count up how many pages there are to
14 this exhibit, please, sir?

15 A. Seven.

16 Q. And if you could, just take a quick look at the bates
17 numbers down in the bottom right hand corner of each of these
18 exhibits and confirm that they are all sequential or within a
19 few pages of each other.

20 A. Yes, ma'am.

21 Q. Now I would like you to take a look at page 2 of this
22 exhibit, which of course is, for the record, Defense Exhibit
23 No. 1351. I am going to try to get the whole thing in. Okay.
24 Now, what is that page, Mr. Yaish?

25 A. Handwritten invoice.

1 Q. And do you see here on this handwritten invoice there are
2 a couple of notations "Pay it to Light Star Travel," "Pay it
3 to Nujoom," did you understand that to mean you were supposed
4 to pay those entities or pay Al-Nujoom?

5 A. Pay Al-Nujoom.

6 Q. And can you -- What do the numbers down here in the
7 bottom 778, 392, 364, those are actually dollar amounts. What
8 do those represent?

9 A. Well, \$778 represents costs of two tickets, one to Mr.
10 Mufid and one to Mr. Ali Ahmed.

11 Q. Are they just plane -- Are those the plane ticket
12 numbers?

13 A. The first three are plane tickets numbers.

14 Q. And then the \$1,000, what is that for?

15 A. It is \$250 for each performer. That is the cost of each
16 performer.

17 Q. Is that pretty standard for what the band members charged
18 for their fee for performing?

19 A. Yes.

20 Q. Now, I would like you to turn now to page 3 of the same
21 exhibit, please, Defense Exhibit No. 1351. And is this an
22 airline ticket receipt, Mr. Yaish?

23 A. Yes, ma'am.

24 Q. And you said a moment ago that the band members were paid
25 \$250 each. Was it the Holy Land Foundation that would divvy

1 up the money among the band members, or would it be the band
2 manager?

3 A. It is up to the band manager.

4 Q. Next page of this exhibit, what do you see there, sir?

5 A. This is also a handwritten invoice.

6 Q. And is this one done -- does it appear to be for Ft.
7 Lauderdale?

8 A. Correct.

9 Q. And we will take a look at the next -- Just keep in mind
10 we have the three participants there, \$250 times three. And
11 then below it says expenses. Do you see that, sir?

12 A. Yes, ma'am.

13 Q. And so we are going to just page through, and let me know
14 if you see -- What you see on the following pages -- This is I
15 believe page 5 of the same exhibit, page 6 of the same
16 exhibit, and then page 7 of the same exhibit?

17 A. Yes, ma'am.

18 Q. And can you tell the jury what it is those last three
19 pages represent?

20 A. Those are reimbursement of some expenses incurred by, you
21 know, the band or the Al-Nujoom band for hotel and car rental
22 and, you know, gas for the rental car.

23 Q. So are those the receipts that go along with the
24 handwritten invoice?

25 A. Yes, ma'am.

1 Q. Now, back to the fundraising again, I think you said that
2 there was a particular time of year when the Holy Land relied
3 on volunteer fundraisers to supplement its staff. What times
4 of year were those?

5 A. Usually during the month of Ramadan or during the Eid.

6 Q. And why was it that the Holy Land Foundation would ask
7 for people to help during those periods?

8 A. Because those are the heaviest months that we receive
9 donations the same time, you know, we conduct events during
10 this month.

11 Q. And at the same time that the Holy Land Foundation used
12 the volunteers a lot during these periods, did the Holy Land
13 Foundation occasionally give volunteers bonuses?

14 A. Yes, ma'am.

15 Q. And why were those given?

16 A. As a thank-you for their efforts, you know, during their
17 volunteer work.

18 Q. And was that something that was mandatory or something
19 that the Holy Land Foundation just decided to do?

20 A. The Holy Land Foundation decided to do.

21 Q. Now I would like to ask you, how did Mr. Abdulqader's
22 volunteer fundraising efforts, money that he raised for Holy
23 Land Foundation, how did the amount of money that he raised
24 compare with other volunteer fundraisers, some of whom we have
25 seen on the list that we looked at before?

1 A. He is an average.

2 Q. So he raised an average amount as compared to the others?

3 A. Yes, ma'am.

4 Q. I would like you to have -- Do you have before you
5 Defendants' Exhibit No. 1087? It should be a big folder.
6 Yes, I think that is it. If you could take that out for me,
7 please.

8 Do you have that first page of that exhibit before you,
9 Mr. Yaish?

10 A. Yes, ma'am.

11 Q. And what name do you see on the first page of Defense
12 Exhibit No. 1087?

13 A. This is Idris, which is Abdullah Idris.

14 Q. And is that the same name you actually read before off of
15 Government's Exhibit HLF Search No. 16 there up at the top?

16 A. Yes, ma'am.

17 Q. And is he one of Holy Land's other volunteer fundraisers?

18 A. Yes, ma'am.

19 Q. Now, did I ask you to take a look at Mr. Idris'
20 fundraising activities--and I am actually going to pull some
21 of these pages out--and total up how much is attributed to him
22 either by himself or in conjunction with other people? Did I
23 ask you to do that?

24 A. Yes, ma'am.

25 Q. I am afraid you have to answer out loud. I am sorry.

1 A. Yes, ma'am.

2 Q. Thank you. So this would be page 1 of his fundraising
3 efforts?

4 A. Yes, ma'am. Yes. Yes. Yes. Yes. Yes. Yes.

5 Q. And on these latter pages do we see Mr. Idris in
6 conjunction with some other people?

7 A. Yes, ma'am.

8 Q. So is it his name alone on these pages?

9 A. No, ma'am. Yes. Yes, ma'am.

10 Q. And for the record we have paged through about 13 pages
11 of Defense Exhibit No. 1087. Right? Did I ask you to add up
12 the dollar amounts that are shown there that are attributed to
13 Mr. Idris?

14 A. Yes, ma'am.

15 Q. Did you have a chance to do that?

16 A. Yes, ma'am.

17 Q. And about how much was he -- does Defense Exhibit
18 No. 1087 attribute to him?

19 A. About \$290,000.

20 Q. Now, did I also ask you to take a look at how much money
21 Mr. Kifah Mustapha raised?

22 A. Yes, ma'am.

23 Q. And remind us again who Mr. Mustapha is.

24 A. He is the office manager of the Chicago office.

25 Q. And have we heard about him in another context also?

1 A. He is a fundraiser.

2 Q. Yes, but in terms -- Was he a band member?

3 A. He is a band member also.

4 Q. All right. And I am going to do the same thing here,
5 just page through these.

6 A. Sure. Yes. Yes, ma'am. Yes. Yes, ma'am. Yes, ma'am.
7 Yes, ma'am. Yes, ma'am. Yes, ma'am. Yes, ma'am. Yes,
8 ma'am. Yes, ma'am.

9 MS. CADEDDU: And for the record -- I lost track.

10 THE WITNESS: This is El-Mezain.

11 Q. (BY MS. CADEDDU) Actually there is one. Did you see
12 that one?

13 A. Okay.

14 Q. Okay.

15 MS. CADEDDU: For the record, I lost track, but I
16 think it was 10, 11, 12 pages.

17 Q. (BY MS. CADEDDU) Did I ask you to total up for me how
18 much Mr. Mustapha raised for the Holy Land Foundation?

19 A. About \$451,000.

20 Q. I would like to take a look at what is attributed to
21 Mr. Abdulqader. And I am showing you for the record what
22 begins at page 212 of Defendants' Exhibit No. 1087. Do you
23 see Mr. Abdulqader's name on this page, sir?

24 A. Yeah, on the bottom.

25 Q. How many entries do we have there?

1 A. Two.

2 Q. And then the next page is one full page. Do you see
3 that, sir?

4 A. Yes, ma'am.

5 Q. And then this is the part of a third page?

6 A. Yes, ma'am.

7 Q. About how many entries would you say are on this page
8 214?

9 A. Sixteen.

10 Q. And did I -- I think I asked you this already, but did I
11 ask you to add up how much is attributed to Mr. Abdulqader on
12 this exhibit?

13 A. Yes, ma'am.

14 Q. About how much was this, sir?

15 A. \$114,000.

16 Q. Let me just ask you, this document that we just looked at
17 already in evidence, is this your accounting record?

18 A. No, ma'am.

19 Q. Okay. But this is one of the Holy Land Foundation's
20 records from a different system?

21 A. I believe so.

22 Q. Now, did Mr. Abdulqader's singing with the band have
23 anything at all to do with the volunteer fundraising that he
24 did for the Holy Land Foundation?

25 A. Can you repeat that question again?

1 Q. Sure. Did the band have anything to do with his
2 volunteer fundraising?

3 A. No, ma'am.

4 Q. Were those two separate activities?

5 A. Yes, ma'am.

6 Q. So what exactly was the relationship of the Al-Nujoom
7 band to the Holy Land Foundation?

8 A. We just contracted them during some fundraising events.

9 Q. And as far as volunteer fundraisers, approximately how
10 many volunteer fundraisers did Holy Land Foundation call on?

11 A. Probably 25 to 30.

12 Q. And did volunteer fundraisers, of whom Mr. Abdulqader was
13 one, ever attend staff meetings of the Holy Land Foundation?

14 A. No, ma'am.

15 Q. As a volunteer fundraiser, did Mr. Abdulqader have a key
16 to the Holy Land Foundation office?

17 A. No, ma'am.

18 Q. As a volunteer fundraiser, one of I think you said 30,
19 did he have a desk at the Holy Land Foundation office?

20 A. No, ma'am.

21 Q. Did he have a computer?

22 A. No, ma'am.

23 Q. As a volunteer fundraiser, actually did any of the
24 volunteer fundraisers have access to the Holy Land
25 Foundation's computer system, its network?

1 A. No, ma'am.

2 Q. And did volunteer fundraisers, including Mr. Abdulqader,
3 have any input into where Holy Land Foundation's money went?

4 A. No, ma'am.

5 Q. Did volunteer fundraisers have input into deciding which
6 families received Holy Land Foundation money?

7 A. No, ma'am.

8 Q. Did volunteer fundraisers decide which organizations
9 received money from the Holy Land Foundation?

10 A. No, ma'am.

11 Q. Did volunteer fundraisers have the ability to sign checks
12 for the Holy Land Foundation?

13 A. No, ma'am.

14 Q. Did volunteer fundraisers, of whom Mr. Abdulqader was
15 one, have the ability to authorize wire transfers for the Holy
16 Land Foundation?

17 A. No, ma'am.

18 Q. In fact, did volunteer fundraisers for the Holy Land
19 Foundation, of whom Mr. Abdulqader was one, have any role at
20 all in deciding how Holy Land's money was distributed?

21 A. No, ma'am.

22 MS. CADEDDU: Your Honor, I pass the witness.

23 THE COURT: Ms. Moreno?

24 MS. MORENO: No questions, Your Honor.

25 MR. MYSЛИWIEC: No questions.

1 THE COURT: All right. Mr. Jonas?

2 MR. JONAS: Yes, sir. If I can have just one
3 moment?

4 THE COURT: Yes.

5 CROSS EXAMINATION

6 By Mr. Jonas:

7 Q. Good afternoon, sir.

8 A. Good afternoon, sir.

9 Q. Long day, huh?

10 A. I know it.

11 Q. We are almost to the end, at least for the day.

12 I want to sort of pick up a little bit where Ms. Cadeddu
13 left off, and then touch on some of the questioning by the
14 other attorneys. I want to make sure we are clear about
15 something.

16 Who was it at the Holy Land Foundation that was
17 authorized to issue wire transfers out of the bank accounts?

18 A. Mr. Shukri Abu Baker or Mr. Ghassan Elashi and Haitham
19 Maghawri.

20 Q. Do you see any of those people here in the courtroom
21 today?

22 A. Yes, sir.

23 Q. Can you identify them?

24 A. Mr. Shukri Abu Baker is the gentleman sitting next to
25 Ms. Hollander.

1 Q. Can you tell us what color shirt he is wearing?

2 A. He is with the glasses.

3 Q. Okay. And Mr. Ghassan Elashi?

4 A. And Mr. Ghassan Elashi is also sitting next to Ms. Linda
5 with the beige shirt and brown I think -- I can't identify the
6 color of his suit.

7 Q. I think -- Do you know where Haitham Maghawri is today?

8 A. I heard he is in Lebanon.

9 Q. You heard? Do you know when he went to Lebanon?

10 A. When?

11 Q. Yeah.

12 A. Yes, after the closure of the Holy Land Foundation.

13 Q. Do you know why he went there?

14 A. Well, he was out of a job.

15 MR. DRATEL: Objection; hearsay, Your Honor.

16 THE COURT: Sustained.

17 Q. (BY MR. JONAS) When you said you prepared the tax
18 returns for the Holy Land Foundation?

19 A. Yes, sir.

20 Q. Did you prepare the returns prior to becoming their
21 in-house accountant?

22 A. No, sir.

23 Q. And am I correct in describing your title as their
24 accountant? I don't want to get that wrong.

25 A. Yes, sir.

1 Q. When you had questions regarding the tax returns, who did
2 you go ask?

3 A. The question about the tax returns itself?

4 Q. Yeah. If you had questions -- Let me make it broader
5 than that; not just the tax returns, but anything pertaining
6 to the financial records of the Holy Land Foundation, if you
7 had questions who would you ask?

8 A. I would go to Shukri or Ghassan.

9 Q. When you prepared the tax returns, you said you sat down
10 with them?

11 A. Yes.

12 Q. Did you sit down with both of them or just one?

13 A. It depends. Any of them.

14 Q. Any of them of course being Shukri Baker or Ghassan
15 Elashi?

16 A. Yes, sir.

17 Q. Who signed those tax returns for the Holy Land
18 Foundation?

19 A. Sometimes Shukri, sometimes Ghassan.

20 Q. What did it depend upon?

21 A. It depends if Shukri is available or not.

22 Q. And in talking to them about the tax returns, is it your
23 understanding, your sense that they understood what the tax
24 returns were about?

25 A. I would explain it to them.

1 Q. Did those tax returns have -- In other words, was it
2 signed under the penalties of perjury?

3 A. Yes.

4 Q. Did they know that -- Withdrawn. Did you go over that
5 with them that it was signed under the penalties of perjury?

6 A. I don't remember.

7 Q. But that sign under the penalties of perjury is right
8 above where a person signs?

9 A. Yes, sir.

10 Q. Now, you discussed payments going to zakat committees.

11 A. Uh-huh.

12 Q. Where on the tax return would payments to zakat
13 committees be reflected?

14 A. It will be in line 13.

15 Q. Is that also called program services?

16 A. Program services, yes.

17 Q. Did you ever tell any of the Defendants in this case that
18 the Holy Land Foundation as a 501(c)(3) charity, or just an
19 American organization, is not allowed to give money to a
20 terrorist organization?

21 A. Not in that sense.

22 Q. How did you tell them?

23 A. Well, you know, we only provide money to charitable
24 organizations, not to political organizations.

25 Q. I am sorry. Not to --

1 A. Political.

2 Q. Political. How about terrorist organizations?

3 A. Well, that would be included.

4 Q. How about illegal organizations?

5 A. Illegal?

6 Q. Illegal. Outlawed or designated organizations.

7 A. That would be also included.

8 Q. Did they have any questions for you about that?

9 A. Do they have any questions for me?

10 Q. When you discussed it with the Defendants, did they have
11 questions for you regarding that, regarding you telling them
12 we cannot give to political organizations, or any other type
13 of organizations like that?

14 A. No.

15 Q. Mr. Westfall talked to you about orphan applications.

16 A. Yes, sir.

17 Q. Do you recall that? And he showed you a Defense Exhibit
18 No. 1091, which I believe -- I don't know if it was one orphan
19 application or a series of applications. And you described
20 what is contained in the orphan applications, and you said the
21 death certificate of the father.

22 A. Yes, sir.

23 Q. Can you just define for us what is an orphan when you are
24 discussing orphans?

25 A. The orphan is the one whose father died.

1 Q. So would the mother be alive?

2 A. Could be.

3 Q. Could be. But just so we are clear, in America an orphan
4 is considered someone who loses both parents.

5 A. In Islamic faith the main one is the father, but it could
6 be both of them. So he might lose the father or lose both
7 mother and father.

8 Q. Now, the money to support -- The money for these orphan
9 applications, did it go to zakat committees?

10 A. It depends, you know.

11 Q. What did it depend on?

12 A. It depends on if the orphan is being sponsored by the
13 zakat committee, or could be through the Holy Land Foundation
14 office.

15 Q. The office where?

16 A. In Gaza and West Bank.

17 Q. Okay. I want to talk with you a minute about the zakat
18 committees. Can you name some of the zakat committees that
19 the HLF gave money to?

20 A. Yes.

21 Q. What are some of them?

22 A. We have Nablus zakat committee, Hebron zakat committee,
23 Tulkarem zakat committee, Jenin zakat committee, Halhul zakat
24 committee.

25 Q. Ramallah zakat committee?

1 A. Ramallah, yeah.

2 Q. Are you familiar with something called the Islamic
3 Charitable Society of Hebron?

4 A. No.

5 Q. You are not familiar with that one?

6 A. No.

7 Q. Did you personally deal with anyone at these zakat
8 committees?

9 A. No.

10 Q. Do you know who ran the zakat committees?

11 A. No.

12 Q. Do you know the reputation of the zakat committees?

13 A. No.

14 Q. Now, when HLF -- You said they had offices in Gaza and in
15 the West Bank.

16 A. Yes, sir.

17 Q. Did they have bank accounts in those areas as well, the
18 HLF?

19 A. Yes.

20 Q. Did the HLF -- Do you know when they first opened a bank
21 account in that part of the world?

22 A. No, sir.

23 Q. Was there accounts opened at the time you started there
24 in 1997?

25 A. I cannot remember.

1 Q. Do you know how many bank accounts the HLF had in Gaza
2 and the West Bank when you were working there?

3 A. One in Gaza and I believe one in the West Bank.

4 Q. Was there money wired to those bank accounts from the HLF
5 here in Dallas?

6 A. Yes, sir.

7 Q. Are you personally familiar with some of those wire
8 transfers?

9 A. Yes, sir.

10 Q. Was money then further wired to zakat committees or
11 checks written to zakat committees or money given to zakat
12 committees out of those foreign bank accounts?

13 A. If it goes to the HLF bank account, that would be -- that
14 means to the local Holy Land Foundation offices. If it is to
15 the zakat committee, it will be directed to their bank
16 accounts.

17 Q. So you are saying money never went from the HLF overseas
18 offices to zakat committees?

19 A. I am not sure.

20 Q. Okay. Well, let me get back to that in a moment. These
21 bank accounts, these HLF bank accounts did the HLF Dallas
22 office exercise any control over those bank accounts?

23 A. No, sir.

24 Q. Did they authorize the opening of those bank accounts?

25 A. Did they authorize?

1 Q. Yes.

2 A. Well, with their knowledge probably, yes.

3 MR. JONAS: If we can pull up HLF Foreign Account
4 No. 1, page 3, please. Okay. That is not the page I am
5 looking for. Let me just put this on the elmo.

6 Q. (BY MR. JONAS) Do you see this letter?

7 A. Yes, sir.

8 Q. Can you just read what this letter says?

9 A. "Bank Palestine Gaza.

10 "Dear Mr. Manager:

11 "The Holy Land Foundation for Relief and Development is
12 an American non-profit charitable organization.

13 "Recently, we have had an office in Gaza because we want
14 to take part of the rebuilding Gaza and helping its people
15 through a range of relief and developmental services.

16 "To help us achieve our goals, I kindly request that you
17 open a checking account under our name. We have authorized
18 both Mr. Zohair El-Barasse and Mr. Jamal AlKhudari to execute
19 this matter on our behalf and have their signature on the
20 account.

21 "I hope this will be the beginning of a very rewarding
22 business relationship.

23 "Thank you.

24 "Sincerely, Shukri A. Baker, executive director."

25 Q. So this letter states that Holy Land Foundation Dallas is

1 authorizing an account to be opened in Gaza?

2 A. Yes, sir.

3 Q. And let me show you what is from HLF foreign Account

4 No. 4. Can you see that one?

5 A. Yes, sir.

6 Q. Are you familiar that HLF had an account at Cairo Amman
7 Bank? Are you aware of that?

8 A. I know they have a bank, but I don't know that is which
9 bank they have it with.

10 Q. Do you know if the HLF had an account at the Cairo Amman
11 Bank? I am not saying in Cairo.

12 A. The name of the bank is Cairo Amman Bank, but no, I am
13 not familiar.

14 Q. Do you know where HLF had these overseas bank accounts?

15 A. Yes. I know they had in Gaza and the West Bank.

16 Q. Do you know which banks, I mean?

17 A. I know Arab Bank.

18 Q. You know some of them?

19 A. Yes.

20 Q. What about the Bank of Palestine?

21 A. That is what it had right now.

22 Q. That was a prior letter?

23 A. Right.

24 Q. Were you aware of that when you worked at the HLF?

25 A. Yes.

1 Q. So you didn't know where the bank accounts were?

2 A. I don't know the name of the banks, but the most popular
3 one we used to deal with, I mean doing the wire, was the Arab
4 Bank.

5 Q. Okay. Can you read this letter, please?

6 A. "Holy Land Foundation for Aid & Development. 10/8/1999
7 to Cairo-' Amman Bank Al Khaleel. Greetings.

8 "We at Holy Land Foundation for Aid & Development inform
9 you that the following have the authority to open an account
10 in the company's name at Khaleel branches of your bank.

11 "Mr. Saleh Selim 'Abdul Nabi, I.D. 96229019,

12 "Mr. 'Izzeddine 'Issa Musa Fraah, I.D. number 991987587,

13 "and in the division of the organization/Al Khaleel, Mr.
14 Kamal Eddine Mohammad 'Awwad Al Tamimi, 94686160.

15 "The check need to be signed by two or three, one being
16 Kamal (director of the office).

17 "Thank you for your cooperation, with respect,

18 "Haitham al-Maghawiri

19 "Executive Director."

20 Q. That is the same Haitham Maghawri you testified about
21 already?

22 A. Yes, sir.

23 Q. So the HLF is exercising some control over these bank
24 accounts that are over in Gaza and the West Bank.

25 A. Yes, sir.

1 Q. I can show you more letters, if you like.

2 A. Yeah, I mean. What I mean, I mean, they were sent
3 authorized opening the accounts from here.

4 Q. Did the HLF send more than \$10,000 a year to any one of
5 these accounts?

6 A. More than \$10,000 a year? Yes.

7 Q. Okay. Now, you said you are a CPA?

8 A. Yes, sir.

9 Q. Did you have to take a test?

10 A. Yes, sir.

11 Q. To become a CPA?

12 A. Yes, sir.

13 Q. How long ago did you do that?

14 A. 1996.

15 Q. So it was right before you started at the Holy Land
16 Foundation?

17 A. I passed the CPA exam, yes, one year before that.

18 Q. Okay. And as a CPA are you familiar with what is known
19 as an FBAR form?

20 A. No, sir.

21 Q. Are you aware that if an entity, an American entity or an
22 individual --

23 MS. DUNCAN: Your Honor, objection. Could we
24 approach?

25 THE COURT: Yes.

1 (The following was had outside the hearing of the
2 jury.)

3 MS. DUNCAN: Your Honor, this is the exhibit we
4 talked about earlier. I did pull up the CFR. I think this is
5 the right one. Our objection at this point, Your Honor, would
6 be he asked the witness if he is familiar with this and he
7 said he is not, so he is not the witness to be asking any
8 further questions about the FBAR system.

9 And when you read the regulation, it is not clear that in
10 fact the Holy Land Foundation was required to file anything.
11 And we don't have any evidence of that. If we had an IRS or
12 some kind of evidence that they were required to do that, but
13 this witness said he doesn't know it.

17 MS. DUNCAN: The other part of the objection is
18 assuming that the Holy Land Foundation was required to do
19 this, and I mean, this witness doesn't -- He is saying he
20 doesn't know. So if he asks him, "Did you know," "Are you
21 aware of this requirement," we object to that. But even
22 assuming they were required to do that and we didn't do it, I
23 think it assumes a fact not in evidence.

24 MR. JONAS: First of all, I can show him the FBAR
25 form itself that lists who is required and the exceptions to

1 the filing and nowhere on it does it list a charity as being
2 exempt from filing an FBAR form.

3 Secondly, he is a CPA. This is something he is supposed
4 to know and is supposed to be able to research. And I asked
5 one question so far and I think I am entitled to follow it up.
6 He may not know the form that is called an FBAR form. He may
7 know it as the form number. He may know the contents of it.
8 And if he doesn't know it, then I think I am entitled to show
9 him the form itself and question him about it because this is
10 something he should know.

11 MR. WESTFALL: May I, Your Honor? Just because he
12 is a CPA doesn't mean he definitely knows about this, for one
13 thing, whether he is familiar with these things. He said he
14 never heard of one. But authority from the standpoint of how
15 they are trying to prove this up, authority over the account
16 could reasonably be interpreted to be signature authority, and
17 clearly he didn't have signature authority over the account,
18 and only the folks over there did. So it might a fall under
19 another exception where it is a domestic corporation with a
20 foreign subsidiary, which would be an exception.

21 Those things remain unresolved, so pounding him over the
22 head with the FBAR is very misleading and we ask, number one
23 that it stop; but number two, if he is going to continue on,
24 then let's take judicial notice of the CFR so the jury can try
25 to figure out whether it applies.

1 MR. JONAS: Your Honor, I think it is pretty obvious
2 it is not a foreign subsidiary. This is a Holy Land office.
3 He already testified to that. I think I have established that
4 the Holy Land office here had exercised control over these
5 bank accounts.

6 And third of all, this is part of a pattern of behavior
7 committed by this individual regarding these foreign bank
8 accounts based upon evidence that the Defense attorneys
9 already put in through him, so this isn't an isolated incident
10 on the failure to report these foreign bank accounts to the
11 United States government. There is other areas that I am
12 about to go into where he should have put down that they had
13 foreign bank accounts and he failed to do so.

14 MS. DUNCAN: Your Honor, the way I read the form was
15 whether or not someone had signatory authority over a
16 particular foreign account, which this witness hasn't
17 testified. He testified --

18 THE COURT: I think he is entitled to ask him the
19 question. I don't know what he is going to say. I am going
20 to let you ask the questions, and then we will go from there.

21 Are You going to show him the form after that?

22 MR. JONAS: Sure.

23 THE COURT: I think he is entitled to do that. He
24 is their CPA filing their taxes, and I think he is entitled to
25 ask about that.

1 MS. DUNCAN: The only other objection was, Your
2 Honor, this is 404(b). We asked for notice prior to trial,
3 and we just got this yesterday and they knew this was going to
4 come up. We were entitled to pretrial notice so we can
5 prepare for this.

6 MR. JONAS: It is not 404(b). This is inextricably
7 intertwined with everything he just testified about -- not
8 everything he testified about, but about his testimony about
9 the HLF, about payments to the foreign bank accounts, it is
10 all connected.

11 MS. DUNCAN: That is not -- The test is its
12 relationship to the offenses charged, and he is specifically
13 alleging a violation of a totally separate statute that we
14 were not put on notice of in this case. And it is not just
15 about this witness. He is questioning this witness as a
16 representative or the accountant of the Holy Land Foundation,
17 so the intent is to say that the Holy Land Foundation did
18 something illegal, and we are entitled to notice prior to
19 trial of that.

20 MS. HOLLANDER: He asked our clients to stand up.
21 You know, clearly this is 404(b) directed at Shukri and
22 Ghassan, and we got notice of this yesterday.

23 THE COURT: Why do you think it is not 404(b)?

24 MR. JONAS: Because we already put into evidence
25 some of the schedules that the only evidence of certain

1 transactions to the zakat committees in the later years were
2 taken from these foreign bank accounts. In other words, there
3 is no evidence of certain transactions based in Dallas. These
4 are on the payment schedules. If it wasn't for getting these
5 foreign bank records, we would never know of some of these
6 transactions.

7 There is a pattern of trying to conceal these foreign
8 bank accounts. Now, there are other internal records that do
9 show these foreign bank accounts existing, so obviously there
10 is something there, but there is also a pattern of concealment
11 starting with the FBAR, starting with these financial
12 documents that they put in through him where they have the
13 annual reports with these foreign assets that should have been
14 reported and they never were. It is a pattern of concealment
15 that I think we are entitled to explore.

16 THE COURT: I think that is right. I think they are
17 entitled to get into that. Because part of the theory is that
18 money is going to the zakat committees through these foreign
19 bank accounts, so that is all part and parcel of that.

20 MS. DUNCAN: Your Honor, just for the record, the
21 number of transactions that they have on their schedules that
22 are not supported by documentation is minuscule, and that
23 there are equally a number of transactions where they have no
24 foreign bank records but they rely solely on the Holy Land
25 records. So to say that somehow the Holy Land Foundation was

1 concealing it --

2 THE COURT: You can argue that to the jury in terms
3 of what that ultimately ends up showing. He is claiming that
4 that shows a pattern of concealment. I don't know the
5 evidence, so I don't know. But if that is true, they are
6 entitled to try to show that and you can argue to the jury
7 that means something else. I don't think that affects their
8 ability to be able to go into it.

9 MR. WESTFALL: Your Honor, just for the record, one
10 more objection. I think that this is a pretty valid 403
11 objection, too, because they are about to get into the ins and
12 outs of this form with somebody who said he doesn't know about
13 the form, and actually kind of rehabilitating that for the
14 jury is going to be next to impossible.

15 THE COURT: I don't know what he is going to say.
16 He has asked him one question, so I think they are entitled to
17 ask him about it and see what he says.

18 It is 5:00. Do you want to get into this now?

19 MR. JONAS: I am happy to stop.

20 THE COURT: Let's stop and start in the morning.

21 (The following was had in the presence and hearing
22 of the jury.)

23 THE COURT: Members of the jury, we are going to
24 break at 5:00. It is election day, so for those who haven't
25 had a chance to vote, I encourage you to vote.

1 Please recall the instructions we have been over. See
2 you back in the morning at 9:00.

3 (Whereupon, the jury left the courtroom.)

4 MR. JONAS: I just wanted to point out what is good
5 for the goose is good for the gander. He is now on cross
6 examination, so he shouldn't have contact with the Defense
7 attorneys.

11 | (End of day.)

1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/08/2009

10 _____ DATE _____
11 SHAWN McROBERTS, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER

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